

**ENVIRONMENT, LAND ACQUISITION & PLANNING COMMITTEE
of the
Suffolk County Legislature**

Minutes

A special meeting of the Environment, Land Acquisition & Planning Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **March 25, 2002.**

MEMBERS PRESENT:

Legislator David Bishop - Chairman
Legislator Michael Caracciolo - Vice-Chair
Legislator Andrew Crecca
Legislator Ginny Fields
Legislator Jon Cooper

ALSO IN ATTENDANCE:

Legislator Angie Carpenter - District #11
Paul Sabatino - Counsel to the Legislature
Jim Dobkowski - Press Secretary to Presiding Officer Tonna
Chris Heer - Aide to Legislator Bishop
Barbara LoMoriello - Aide to Legislator Cooper
Frank Tassone - Aide to Legislator Crecca
Kevin Duffy - Budget Review Office
Nicole DeAngelo - County Executive's Office/Intergovernmental Relations
Thomas Isles - Director/Suffolk County Planning Department
Christine Costigan - Director/Real Estate Division-Planning Department
Jim Burke - Deputy Director/Real Estate Division-Planning Department
David Grier - County Attorney's Office
John Turner - The Nature Conservancy
Heather Lanza - The Nature Conservancy
Alpa Pandya - The Nature Conservancy
Lance Millamo - Executive Director/Suffolk County Vanderbilt Museum
Emi Endo - Newsday

MINUTES TAKEN BY:

Alison Mahoney - Court Stenographer

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(*The meeting was called to order at 1:17 P.M.*)

CHAIRMAN BISHOP:

Good afternoon. This is the March 25th Special Meeting of the Environment, Land Acquisition & Planning Committee. Please rise for the Pledge of Allegiance to be led by Legislator Caracciolo.

Salutation

This special committee hearing is to consider legislation to change or reaffirm policies with regard to the acquisition of property in Suffolk County. We have more than 30 bills filed, most of them come

directly out of the Review and Recommendations Report which was a -- I called it the Cimino Report, I was admonished for that by committee members, they wanted the name to -- I don't know what name they want, but I think we know which report they're talking about, it's the one that was issued on February 14th, 2002, Legislator Lindsay, Legislator Carpenter served on that committee as well. So we have each of those recommendations broken out into a separate bill. In addition, Legislators sponsored I think four or five other measures.

My goal, with the committee's consent, is that we go through each of those proposals and the ones that receive a majority favorable view of the committee will be joined into one single omnibus bill that will be filed following this meeting. All the other measures will be -- the ones at least that I'm responsible for will be withdrawn and the idea is to come out with an omnibus that reflects the view of this committee.

(*Legislator Fields entered the meeting at 1:17 P.M.*)

Is that acceptable as a procedure? All right. So why don't we begin by hearing from the Commissioner of Planning, Mr. Isles, to give us an overview of the report and then we will delve into each particular recommendation.

COMMISSIONER ISLES:

Thank you, Mr. Chairman. And I appreciate the opportunity to appear before the committee today and I think the forum that you've selected to focus specifically on this topic is a wise one. Obviously the topic is one of great importance to this County, one that is critical to the operation of an important program and one that has resulted in the preservation of over 44,000 acres of land, both either parks or drinking water protection or farmland, and in the past eleven years, ten or eleven years, over 10,000 acres of that occurred. So this government, the County Executive and this Legislature, have much to be proud of, it's a wonderful program, it's a nationally noted program. And the opportunity to appear today to address your concerns on this, to present and discuss the recommendations of the panel is welcomed.

I would also like to note the appreciation of the Legislature, specifically Legislator Carpenter and Legislator and their participation in the panel. There was full attendance of all members at all meetings which was I think a first for committees that I've been a part of it. There was a true intent and effort to address this

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issue and to come back with serious and bonafide recommendations to the panel, to the Legislature.

Just couple of things I would like to mention first. Number one is that this issue became quite apparent that there were some things that needed to be done in the Real Estate Division and the acquisition and sale of property during the fall and certainly by December there were some very apparent questions, and certainly with the resignation of the former Director of Real Estate. At that time, a number of things were done including, as you mentioned, Mr. Chairman, some legislation

was introduced to deal with this issue. The County Executive did empanel the Joint Executive Legislative Panel, that commenced in the middle of December and was charged with looking at both acquisition and sale of property. At this point it was not charged with doing review of leases or other parts of the Real Estate Division functions, including property management and so forth. But I can report that a number of things have been accomplished.

Number one is that the panel did complete its report in the middle of February, and that has obviously been made available to all Legislators and will be the subject of today's discussion. But a couple of other things I want to bring you up-to-date on as well is that obviously you're aware that the position of Director of Real Estate has been filled, we're very -- I'm very pleased with the appointment of Christine Costigan who is with us today and this will enable us to continue to move forward. That this program, the operations of the Real Estate Division, as I said, are very important to this County and having full staffing, especially management staffing, is critical to that.

Other aspects that have been accomplished is that the Legislature approved a resolution to audit the Real Estate Division; that has commenced, it started about three weeks ago. The audit and accounting departments of the Real Estate Division are spending quite a bit of time on that as well as the Assistant Director of the division. So that is under way and we are cooperating fully with that, in the successful conclusion of that in the near future.

There have also been administrative changes to the Real Estate Division. Some of these began as information became available during December, but following the completion of the report by the panel, many of those recommendations have been put into effect or are in the process of being put into effect right now. And then lastly, there have been Legislative initiatives that, here again, are initiated by the Legislature as well as the County Executive that are pending before you at this time.

To get to the report itself, the report looked at -- the primary purpose, as I said, was to look at acquisition and sales and to review the procedures and process for that and to make recommendations back to the Legislature and the County Executive. I think we can classify the nature of the recommendations in a couple of different ways. I think first off, the effort was exploratory to find out how do we do things now, what are some of the things that perhaps need to be clarified in the procedures. And I think one of the things that happened is that since we have been running, this County has been

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running, here again, an outstanding program, last year we spent \$50 million, the year before 47 million. And just to put that into perspective, I remember hearing an advertisement on the radio in October from the County of Westchester and they were boasting their Open Space Acquisition Program which was spending \$2 million a year on open space. And obviously the County of Suffolk and this Legislature

and the County Executive have done a great job, but it's a program that as we looked at it we saw that there was a need to do some clarifications of procedure and process.

So a good part of this report is to say -- to address questions such as when do we go out and get another appraisal on an acquisition? When is it appropriate to get a repeat appraisal? That sort of thing was not really crystallized or clear in terms of the procedures, so we tried to spell out something as simple as that, that there would be a criteria and that applies to many of the recommendations in the report.

The key aspect of the report was to try to seek a balance. One reaction to the situation that did occur was -- would be to basically come up with standards and procedures and checks and balances that would basically render the process paralyzed at that point. The key thing then was to find a balance between control and process, to provide what the County Executive expects and what this Legislature expects in terms of fiscal oversight, legal and technical oversight of the programs that are operated, but in a manner that still enables transactions to go forward, still enables the implementation of Executive and Legislative intent or policy to occur. So that became the overriding aspect of how the report was put together.

Specific to the issue of acquisitions, as you'll note in the report, and I have copies if you'd like, additional copies today. I won't go through each one, one by one, but to give, as the Chairman has indicated, a brief overview of the recommendations. A number of the recommendations, as indicated, deal with the basics, but a couple of things that I'd like to highlight on this is that --

CHAIRMAN BISHOP:

Tom, we're going to go through each one.

COMMISSIONER ISLES:

Okay, so I won't do that.

LEG. CRECCA:

Can I take you up on one of those copies?

COMMISSIONER ISLES:

Okay.

LEG. COOPER:

Tom, me also.

CHAIRMAN BISHOP:

All right. So we're going to invite you back in a minute. I have one card from the public, we'll do them -- we'll do the card first, we'll

do the public speaking first, and then we'll go back and we'll go through each recommendation one by one by one.

COMMISSIONER ISLES:

Okay, whatever the pleasure is of the board. At that point, we do have additional information if you need it, backup on any of these. Here again, the primary point I think we'd like to do is to take the steps necessary to provide the control and oversight that is needed for this program both from the Executive and Legislative standpoint, but also to move forward. So we appreciate this opportunity today. And I'll also point out, too, that the real estate report did acknowledge that there was still time for a point of discussion on this, meaning that the real estate recommendations and the final concluding statement indicate that obviously this is a matter of broad importance to this government. That additional comments from the Legislature and fine tuning would of course be necessary, but also there may be ideas that we put into practice and try them out and we find out they're not quite achieving what we want them to achieve. So we recognize that this is subject to further fine tuning, we think it's something that addresses the issues but we certainly welcome the opportunity to fine tune them today.

CHAIRMAN BISHOP:

Can I ask one question, an overview question. Does any of the report's recommendations deal with the following real life scenario? The appraiser looks at the property and states it's worth a million dollars, an appraisal review comes back and says no, it's only worth 900,000; what do we do then?

COMMISSIONER ISLES:

The report recommends that there be the process of appraisal review. And the reason for that is that I think, and I think the committee agreed, that there is a need for quality control, that even an appraiser can make mistakes, that we need somebody on the County's side ensuring that the information is correct.

In terms of your specific point, I view that as being a matter in terms of the description of the job and the role of the appraisal review staff, it's something the new Director and I have talked about. And one of the recommendations in the report is that a certified real estate appraiser be on the staff of the Real Estate Division. Steps have begun on that so I think one aspect would be whoever is reviewing the work, the report of a licensed appraiser would also be a licensed appraiser, number one. Number two, we think that in terms of that job description and what the intent is of the appraisal review, which is basically to check the work, to check the facts of the appraiser, we think that that has to be factored in from a staff standpoint.

CHAIRMAN BISHOP:

So the answer is that the appraisal review trumps the outside appraiser, but the appraisal review should be heretofore conducted by a certified appraiser.

COMMISSIONER ISLES:

Well, it's in part that, that it should be a certified appraiser should at least be part of the staff, whether overseeing or somehow

appraiser reviewer should necessarily be coming up with a number or second-guessing some of the aspects of the report. I think what they've got to do is -- and this is something we are in review right now, is define what that role is and I think we view it more as being a case of are there errors in the report, is there factual information that's wrong, are there comparable that are wrong, and to use that.

I'll also point out, too, that the report does recommend two simultaneous appraisals for acquisitions above 300,000. So as we get to those higher numbers, we're not going to just be relying upon one appraisal and then one appraisal review, we'll have two numbers then to move with.

CHAIRMAN BISHOP:

Again, let's -- I'm sorry to belabor this, but this is --

COMMISSIONER ISLES:

Important.

CHAIRMAN BISHOP:

-- most likely, you know, a troublesome scenario. So let's say both outside appraisers say a million but the reviewer says 900,000, now we have two that say the higher and one that says the lower. By law we're not allowed to pay more than appraised value, but who's appraised value, the reviewer's, the outside appraiser's?

COMMISSIONER ISLES:

I'm not sure if the reviewer should be coming up with a number. They have criticism saying this is wrong or that's wrong and I think we need to go back to the appraiser with that. So that's something we are looking at. And the question being what is the role of an appraised reviewer, is it to do an appraisal or is it to review the content submitted?

CHAIRMAN BISHOP:

Exactly right.

COMMISSIONER ISLES:

Not to get too carried away with this, but another point, Mr. Chairman, is that the panel has recommended that there be some Legislative involvement and direct Legislative involvement in acquisitions over a million dollars. We have to keep in mind we're dealing with the art of appraisal, we're not dealing with the science of appraisal, and they're professional judgments in value, including what's been done in the appraisal review. As this Legislature reviews settlement of lawsuits and other acquisitions of goods and services for the County, we feel that this should also happen here. So it's been suggested as a special committee or some process satisfactory to the Legislature to enable us to bring this information forward to you and then a judgment can then be made, an informed judgement as to what's an appropriate offer of acquisition.

Please keep in mind that the report came out about a month ago, the Director of Real Estate came on last week. There's been a lot of process in terms of -- I think of in terms of the management of the

program at this point, but believe me, we're still in a transition, we're still implementing. And the point you're making has come up already a couple of times with acquisitions, it's a bona fide point, but I think those are the ways to deal with it; have a certified appraiser on staff to examine what is the role of appraisal review and to provide for that Legislative input.

CHAIRMAN BISHOP:

Legislator Fields.

LEG. FIELDS:

You made a statement that you're now doing appraisals, simultaneous appraisals of land that's over \$300,000. But unless you have already done an appraisal to find out that it's worth \$300,000, how do you do that?

COMMISSIONER ISLES:

Yeah, that question definitely came up. We usually have an idea or people on our staff have an idea of what the value is. So what we'll do is we have recommended acquisition procedures based on four thresholds, four levels of review within the division. So if we're sensing or if we're looking at a property that's in the borderline of 300,000, we'll probably just get the two from the start, but we use our best judgment and that's probably about all we can do on that. If we do come up with a situation where we think it's 200,000 and it comes in at 300,000, we would then report that back to obviously the division head, the department head and then, if need be, the Legislature.

One other aspect of this is that we are suggesting that where we go with planning steps resolutions be slightly modified, too, and we'd like you to consider this. The panel saw that right now planning steps really only authorizes the division to get an appraisal, do a last owner search and that's about it, we can't really start negotiations. We feel that when we can then come back to you for authorization, we don't really have any information, we don't have any negotiation information at all times. So what we'd like to suggest for your consideration is that the planning steps include the ability to start preliminary negotiations so that when we come back to you for authorization, whether it's on a million dollar acquisition or a \$50,000 acquisition, at least we have an idea where we are at that point. That if this committee or any other committee or the Legislature wants to get an executive session perhaps, more information, what do the appraisals show, what is the owner willing to accept and so forth, we think it might be more helpful to you to get a better idea where we're going with this and get the Legislature a little bit more involved in that part of the process. So that's also in the report and we think it may help in terms of searching for the right number and the appropriate number for an acquisition.

CHAIRMAN BISHOP:

All right. Our friends from The Nature Conservancy, do you want to speak to the committee?

MR. TURNER:

I think, David, at this time we don't. I think Alpa Pandya, the

Government Relations Specialist, did provide some comments at the last meeting.

CHAIRMAN BISHOP:
Right.

MR. TURNER:
And read a letter into the record. But we're here if there are any questions, follow-up questions to members of the conservancy, we're happy to answer that.

CHAIRMAN BISHOP:
And we appreciate your presence. All right. Legislator Carpenter, you're a member of the task force, do you want to say anything at this time or should we go one by one through the proposals?

LEG. CARPENTER:
The one thing I would like to say, first of all, I need to leave, I have another appointment, I didn't realize until last week that this was going to be held today. But I do want to really commend Tom Isles. He was our Commissioner of Planning for not a terribly long time when this all happened and as he said, the review panel came into being the middle of December and met over the holidays and we were all very diligent, but certainly the lion's share of credit has to go to Commissioner Isles because he really did more than the lion's share of the work in compiling all of the information and helping with all of the research that came up as, you know, a matter of doing business.

We had some people come forward to give us a perspective of where we were and also Legislative Counsel who, I think everyone will agree, has an enormous institutional memory and was able to provide us with some information that we all needed so that we could do the best job that we could with this task.

CHAIRMAN BISHOP:
Thank you very much. Tom, you want to --

COMMISSIONER ISLES:
Okay.

CHAIRMAN BISHOP:
Do you want to bring anybody else with you or you're going to take this on yourself?

COMMISSIONER ISLES:
No, I would like to bring representatives from the Real Estate Division up.

CHAIRMAN BISHOP:
Whoever you want. I guess the County Attorney's Office is not here? All right, that's a field day for Counsel Sabatino. Does everybody, members of the committee have the late --

LEG. CARACCILO:
Were they invited?

CHAIRMAN BISHOP:
Sure.

LEG. CARACCIOLO:
Well, let's get them over here.

CHAIRMAN BISHOP:
If they don't feel it's necessary, I mean, is there --

LEG. CARACCIOLO:
Who doesn't feel it's necessary?

CHAIRMAN BISHOP:
The administration.

LEG. CARACCIOLO:
We feel it's necessary.

LEG. CARPENTER:
Did the invitation go to them, that we were having --

CHAIRMAN BISHOP:
They're here.

LEG. CARACCIOLO:
We're the elected the officials, if I feel it's necessary --

CHAIRMAN BISHOP:
No, there was no written invitation to them.

LEG. CARPENTER:
Okay.

LEG. CARACCIOLO:
I would like the County Attorney here.

CHAIRMAN BISHOP:
There was no written invitation to anybody specifically. At the last Environment Committee we discussed --

CHAIRMAN BISHOP:
All right. Then I think that point needs to be made, that was why I asked that. Because I know I first learned of this at our Legislative meeting last week that this meeting was being held and I was just asking if you sent a direct, you know, invitation to the County Attorney's Office.

CHAIRMAN BISHOP:
At the last Environment Committee we specifically discussed how we would proceed.

LEG. CARPENTER:
Okay.

CHAIRMAN BISHOP:

That we would go through the report and each of its recommendations

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and try to craft an omnibus. The administration is represented at every committee meeting and I figured that was sufficient and I believe they have chosen -- they feel that they have sufficient representation with the people that are before us. If Legislator Caracciolo wants, I will direct --

LEG. CARACCILOLO:

I would appreciate it.

CHAIRMAN BISHOP:

-- my Aide to call to the County Attorney's Office and let them know that they're requested to be here, if they can. In any case, we'll proceed. All committee members have the late starters that begin with 1360; you all have that?

LEG. CARACCILOLO:

Yes.

CHAIRMAN BISHOP:

All right. They run through 29 of them, through 1389, each one is a specific recommendation of the report. Paul, do we have 33 or 29?

MR. SABATINO:

There's 33 recommendations from this report, three of them had been filed in the form of Local Laws by the County Executive which --

CHAIRMAN BISHOP:

Oh, okay.

MR. SABATINO:

-- are in front of you from the previous filing. Thirty were the ones that you sponsored as Chairman just to pick up the balance of this report, and there's like four stand-alones from Legislators who had previously filed their recommended changes.

CHAIRMAN BISHOP:

I think the Local Laws, though, are -- I have to flag those. Can you tell me what those bill numbers are, do you know those?

MR. SABATINO:

Well, if I -- I can but if I can just make a suggestion. The numbering of the bills, it's just the way the bills got filed. But if you look -- if you work off the report, the report has a certain internal logic to it.

CHAIRMAN BISHOP:

All right.

MR. SABATINO:

Which is that, for example, it was broken --

CHAIRMAN BISHOP:

All right. Then tell us what the first logical one to do is and then we'll go with that one.

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MR. SABATINO:

Well, if you start with sales because there are six recommendations on sales, that's the shorter of the list.

CHAIRMAN BISHOP:

Okay. Which is the first one of those?

MR. SABATINO:

Okay. The first of those would be -- the first recommendation was that the release of the list of properties to be placed on the auction must be done in a manner so that no one will have access to the list before others.

CHAIRMAN BISHOP:

Where is that; does that have a bill number? That's why you go through, so we don't spend a lot of time chasing.

COMMISSIONER ISLES:

1389.

CHAIRMAN BISHOP:

Oh, it's backwards, okay. The very last one.

LEG. CRECCA:

I'm sorry, what number was it?

CHAIRMAN BISHOP:

1389, Auction List Release, RESOLVED that the release of the list of surplus real estate parcels to be placed on the County auction block and offered for sale to the highest bidder. All right, what -- Counsel, is this one that requires legislative action in order to be implemented? And I think the answer is no.

MR. SABATINO:

Well, if you want to -- well, first of all, I don't know what formed the basis for the concern so, you know, I'm kind of working in a little bit of a vacuum and I'm speculating as to what generated it. But I think really you should find out first what was the specific event that triggered this because I'm not necessarily aware of what the event was, and then the answer will depend on what that basis was.

CHAIRMAN BISHOP:

Okay.

COMMISSIONER ISLES:

Just very briefly, the -- in this particular case there was no specific event other than when the panel reviewed both acquisitions and sales, one of the overall concerns I think that existed in terms of sales was that there be fair play, that everyone be treated equally

in the auction, that there's equal and fair opportunity to purchase property. So we didn't observe necessarily that there was a release of the list of auction parcels necessarily beforehand, but we did feel it was important. So what we wanted to do, this is in category of clarification, that we should not have a situation we felt in the discussions -- I think we started most of these about seven in the morning, so we got into this pretty good, actually, as the day

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progressed -- but the discussion was that we shouldn't have a situation where certain developers or big land owners or anybody else for that matter has access to the list before anybody else. So we have set a date and the fact is I met with the division director and the assistant director last week for the next auction just to make it clear that there should be a set date when everybody at the same time gets the auction list, they have the same time then to do the their due diligence.

I will point out, too, that we have from the Executive Branch side, and myself as the department head, have put into effect or started to put into effect many of the recommendations in the report that were of the administrative nature, and this is one of those. But that was the purpose of it and just in answer to your question of what was the origin of that recommendation.

CHAIRMAN BISHOP:

What did you do administratively since this is already the law? You just --

LEG. CARPENTER:

No.

COMMISSIONER ISLES:

The law doesn't specifically say that it has to be released on a set date, it just says we have to come up with a list and so forth.

CHAIRMAN BISHOP:

Okay. So the specific administrative action is to have a release date.

COMMISSIONER ISLES:

Exactly.

CHAIRMAN BISHOP:

Okay, thank you.

COMMISSIONER ISLES:

Very simple.

CHAIRMAN BISHOP:

That doesn't require legislation, right?

MR. SABATINO:

Well --

LEG. FIELDS:

No

CHAIRMAN BISHOP:

Require, I'm not saying whether we choose to. The question is does it require.

MR. SABATINO:

The issue is whether or not you want to make it something that's binding. If you want to make it binding you codify it.

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CHAIRMAN BISHOP:

I understand.

MR. SABATINO:

Administrative rules are not binding.

CHAIRMAN BISHOP:

I don't need the editorial, I just want to know does it require it?
No.

MR. SABATINO:

Required depends on what the goal is. If the goal is to make it something legally binding, you codify it in the Statute. If the goal is not to do that, then you don't need to adopt this.

CHAIRMAN BISHOP:

First of all -- let me ask you this. Maybe it's my own ignorance. Can't the Executive by Executive Order make something legally binding? Legally binding, you mean permanent; well, permanent nature because it's codified, is that it?

MR. SABATINO:

Right. The point of an Executive Order is that it's limited to the people that he has direct jurisdiction over for the period of time that he is the Executive or she is the Executive.

CHAIRMAN BISHOP:

Right. All right, but this doesn't even -- this is not an Executive Order, this is just the manager of the division saying we're going to have a date to release it on.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

Okay. Now the question, now that everybody has the sufficient background, do you think that this is worthy or important enough that it be put into a resolution?

LEG. FIELDS:

Can I ask something?

CHAIRMAN BISHOP:

Yes, you can ask something.

LEG. FIELDS:

Prior to this becoming official, you know, either through the department changing already or passing this as a resolution, if let's say a developer wanted to call your office and say, "Are you going to be having" -- I'm asking so you can hear the answer. If a developer wanted to call your office and say, "What properties do you think are going to be going on the auction block in May when you have an auction," they could possibly get that information from you if this were not legislation that were approved or an Executive Order.

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COMMISSIONER ISLES:

I think it's possible. I'm not sure if it occurred in the past or not but, here again, when we talked about it we said whether it happened or it didn't happen, because there were no complaints --

LEG. FIELDS:

But I'm saying it would be possible.

COMMISSIONER ISLES:

It would be possible, yeah.

LEG. FIELDS:

Okay.

COMMISSIONER ISLES:

And we just felt let's not have it as a doubt, let's just say it should be everybody knows at the same time and that's it.

LEG. FIELDS:

Right. So then --

COMMISSIONER ISLES:

That's what the panel discussed.

LEG. FIELDS:

Just based on that response, I would think that we would want to make this --

CHAIRMAN BISHOP:

Codified.

LEG. FIELDS:

-- a legal, you know -- because if we didn't and you had an Executive Order that just said you should do it and someone decided not to do that, there wouldn't be any penalty to pay or, you know.

COMMISSIONER ISLES:

Here again, the balance that we were running into is that many of these items are administrative under the jurisdiction of the County Executive and the Executive Branch of Government. And the other aspect of it is that we didn't want to overly burden the process and so forth. We just felt that clarifying certain things, clearly instructing the division and the department staff was important on a

lot of the recommendations. What we're dealing with is, as I said, an important topic but it's not rocket science either, this is basic management.

LEG. FIELDS:
Right.

COMMISSIONER ISLES:
And I think we do it well.

LEG. FIELDS:
But it's also accountability and I think that if we did make this a legal document it would be -- it would force anyone who wasn't

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thinking that they should be accountable that there are certain rules and regulations that they have to abide by and this would be one of them.

COMMISSIONER ISLES:
Well, they would be accountable to the department head, the division head, sure.

LEG. CARPENTER:
Couldn't someone have information that a parcel might potentially be coming up on the auction block and get that information, not just a developer but, you know, someone like the Long Island Housing Partnership who's looking to do an affordable housing project and know that a particular parcel or parcels might be coming ripe for the point of time that they are going to be able to be sold or transferred? And we shouldn't be --

CHAIRMAN BISHOP:
Penalizing.

LEG. CARPENTER:
-- not making that information available. But I think what was trying to be done here was to say that once the list is compiled, that no one should have access to that list before anyone else and that there should be a specified date that the list is released. So that someone at any point in time could call and say do you think, you know, such and such a parcel might be on the auction block and they should be able to give that information because it's really public information, but they don't know that for certain, it could be pulled, you know, for whatever reason. But that once the list is formulated of what properties are going to be on the block, that no one gets that list before anyone else.

CHAIRMAN BISHOP:
Is everybody clear on that?

LEG. FIELDS:
Uh-huh.

CHAIRMAN BISHOP:

Michael, what -- how are we going to do these votes?

LEG. FIELDS:

Motion to approve.

CHAIRMAN BISHOP:

Well, we're not approving because --

MR. SABATINO:

Right.

CHAIRMAN BISHOP:

I mean, yes, we're approving and then what will happen is the bill will ultimately be consolidated into an omnibus.

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MR. SABATINO:

Recommendation.

CHAIRMAN BISHOP:

So it's more like a straw vote than an actual --

LEG. FIELDS:

How do you want to do it?

LEG. CRECCA:

Well, part of the problem we're going to have is there's thirty something bills or concepts that we're looking at, too. It's sort of hard in perspective to pull each one out without going through all them. In the same respect, too, I'm a little unclear now, part of me is saying -- and I guess I want to hear a little more -- that this sounds like more of a management thing than it is something that should be codified.

CHAIRMAN BISHOP:

Right. I can't answer the first part, the perspective part because, I mean, the glib answer is we all should have read the report to get the broader perspective. However, on the second question, that's exactly what I'm asking. I mean, I want to find out if a majority of the committee wants this folded into an omnibus resolution or feels it's just a management prerogative. So you say it's a management prerogative; Legislator Fields, you say it's something to be codified.

LEG. CARACCILO:

I agree.

LEG. COOPER:

I agree.

CHAIRMAN BISHOP:

Codified, three. I'm a management perspective, three to two is the vote. Codified (VOTE: 3-2-0-0). Are you going to keep track?

MR. SABATINO:

Yeah, I'll keep track, and hopefully the verbatim minutes will keep better track.

CHAIRMAN BISHOP:
Right, okay.

MR. SABATINO:
The next one is IR 1381, and I want to thank Commissioner Isles for giving me the matching up list. Item number two in the report was the rules of the auction should be applied uniformly, that was the recommendation that was converted into a bill.

CHAIRMAN BISHOP:
The rules of the auction should be applied uniformly.

COMMISSIONER ISLES:
Pretty simple.

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CHAIRMAN BISHOP:
Well, makes you wonder why we needed to say that. Was there a finding that they were not applied uniformly?

COMMISSIONER ISLES:
Yes.

CHAIRMAN BISHOP:
Okay.

COMMISSIONER ISLES:
There were situations in prior auctions where certain buyers were able to get benefits that not everyone got. And this was not done for any sinister reason but it was basically I think at that time the idea of good business, that these were the buyers who bought a lot of property, bought property that others didn't want to buy perhaps. So we did find that there were practices where, here again, some buyers were given advantages over other buyers, the committee felt adamantly that that should not be the case. And it maybe sounds kind of redundant to say it or it sounds overly simplistic to say it, but we just want to be very clear on it and that's the basis of recommendation number two.

CHAIRMAN BISHOP:
But there is no specific managerial action taken as a result of this broad truism?

COMMISSIONER ISLES:
There's no -- I'm sorry, I missed the first part.

CHAIRMAN BISHOP:
There's no specific management action that you took as a result of this decision that everything should be applied? As in the last one it was, we're going to have a release date, is there something --

COMMISSIONER ISLES:
Well, there was a specific management action taken on this one. And I

had prepared a memorandum to then Acting Director of Real Estate, Mr. Burke, on March 1st and in that I indicate that the rules of the auction shall be applied uniformly to all bidders and I go on to discuss that a little bit. So it has been a directive to the department so that it's not ambiguous in the future.

CHAIRMAN BISHOP:

Maximum was the word I was looking for. But when you say you discussed it a little bit, can you reveal what that means? You say from now on the rules of the auction are to be applied uniformly; there's the directive, right, there's nothing more to the directive.

COMMISSIONER ISLES:

No, there's really nothing more. I mean, I can give you examples. The example I give in the staff memorandum is that we did in some cases take deposit fees for the purchase of property that were not certified, they were personal checks. I'm not aware we ever had any problems with that, but everybody should have the same provision for paying their deposit fee and we require certified checks. So to make it very clear at any point in the future for our auctions, they will

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all have to be certified funds or cash in some form. So that was the example --

CHAIRMAN BISHOP:

Is that the example, is that the practice you were trying to remedy?

COMMISSIONER ISLES:

Yes.

CHAIRMAN BISHOP:

Personal checks for certified checks?

COMMISSIONER ISLES:

Yes. The only other practice that we also discussed a little bit was that some of the larger bidders would postpone signing their contracts later on in the day because they were there for multiple purchases. So that was another practice where we just felt that there had to be a uniform treatment, that the little guy, the little bidder as well as the large bidder should have the same rules, and so if the big guy can postpone the signing of the contract for half an hour or an hour or whatever, the little guy should have that same right.

CHAIRMAN BISHOP:

Okay. Andrew? Legislator Crecca, rather.

LEG. CRECCA:

Yeah, I just want to jump back to what we just did before because I'm looking at 1389, the resolution, and it's -- again, I'm just -- it says something a little different than what the actual recommendation is, unless I'm reading the recommendation wrong. The recommendation is saying that we should have a single date for distributing the auction list, correct?

CHAIRMAN BISHOP:

Right.

LEG. CRECCA:

And this one, this is just saying that the release of the list shall be done in a manner to ensure no one will have access before others.

CHAIRMAN BISHOP:

Right.

LEG. CRECCA:

And I'm just wondering, I know it's a little bit of semantics, but there is a little bit of a difference. I think actually the recommendation is more specific and makes a better codification --

CHAIRMAN BISHOP:

Right.

LEG. CRECCA:

-- than 1389

CHAIRMAN BISHOP:

Right, and that's what we went with.

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LEG. CRECCA:

Okay. With the --

CHAIRMAN BISHOP:

In fact, I should clarify that with Counsel; you understood that?

MR. SABATINO:

Just so you understand, the legislation was based on the written recommendation. The written recommendation, the written recommendation in the report says the release of the list of properties to be placed on the auction must be done in a manner so that no one will have access to the list before others. It didn't talk about a specialized date, the specialized date came up today in the dialogue.

LEG. CRECCA:

No, actually it's in the text of the recommendation. My concern is this, is that when we -- for those rules which we decide not -- we decide to incorporate, that we don't -- if we're going to codify things and make them statutory, that we be specific to what it is we're trying to accomplish.

CHAIRMAN BISHOP:

You want to codify the administrative action.

LEG. CRECCA:

Correct, exactly. I mean, to codify general recommendations is not going to help the department or it's not going to help clarify things, it's just going to leave it too wishy/washy in a lot of cases. So that's why I was jumping backwards and I'll try to --

LEG. FIELDS:

You're saying add a single date?

CHAIRMAN BISHOP:

Here's -- I think I can synthesize it. The legislation 1389 says -- gives a general demand, nobody is to get the auction list sooner than anybody else. The specific remedy that the department ordered was that from now on they'll have a release date. When we voted three to two to move this forward, what Andrew is suggesting is that we voted three to two to have a release date.

LEG. FIELDS:

Uh-huh.

CHAIRMAN BISHOP:

Not the general language but the specific action.

LEG. CRECCA:

Right, they should all be very specific. If I'm wrong, I mean, just because if you are doing --

CHAIRMAN BISHOP:

Right. Okay, I think we agree.

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LEG. CRECCA:

Okay, right.

CHAIRMAN BISHOP:

Thank you.

LEG. CRECCA:

What made me think of it was this one that we're talking about now is a very, very general concept and I don't think warrants being codified by statute. And that's what made me think of the last one, too, if you're going to codify something, make it clear and specific so that there is no ambiguity on the part of those in the administration who may be administering it.

CHAIRMAN BISHOP:

So I would argue that unless this is already the rule or the law, that we should adopt this less we be accused of adopting a policy that would permit different treatment. So --

LEG. CARACCILO:

I would agree.

CHAIRMAN BISHOP:

So that's -- I don't want to, you know -- then we would be on record as rejecting the legislation or the specific recommendation that says we should not treat bidders separately, distinctly, differently.

LEG. CRECCA:

Under that theory, though, then every single recommendation should be

codified. I understand what you're saying, I agree that they all should be treated uniformly, but I thought the purpose here was what should we leave to the Executive --

CHAIRMAN BISHOP:
Right.

LEG. CRECCA:
-- and what we should leave to management and what should be codified by statute. So again, I'm back to, you know -- I understand what you're saying. I don't think we're on record, if we don't accept one of these, it doesn't mean we don't agree with the recommendation, the record will speak for itself.

CHAIRMAN BISHOP:
Right.

LEG. CRECCA:
I think we all agree that the rules should be applied uniformly, but I don't know -- I don't even know how you would enforce that, you know. It's going to invite litigation if someone is treated slightly differently or something like that, are we down the road inviting litigation from a bidder because they were treated, you know, differently on a minor manner, something that was not of substance, if we codify this and create -- I bring that up just as a legal question; why would they be treated differently in the first place?

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LEG. FIELDS:
What if we put in specific recommendations of why they would not be treated fairly? And in addition to that, I just had a question where it says -- in the recommendations it says, "They were able to postpone contract signing until later on in the day"; wasn't it also that they were able to postpone it for weeks, months and maybe even years?

COMMISSIONER ISLES:
No.

LEG. FIELDS:
No?

CHAIRMAN BISHOP:
That was closing not contract.

LEG. FIELDS:
Oh, closing. Okay.

CHAIRMAN BISHOP:
I think we're getting to that one later on.

LEG. FIELDS:
Okay. But maybe --

CHAIRMAN BISHOP:
Counsel, let me -- I'm sorry.

LEG. FIELDS:

I'm just thinking that maybe what Legislator Crecca is saying is that the name of the bill and the little bit that explains it is possibly not enough and not specific enough and that perhaps some of the wording in, you know, after the recommendation should be also applied to the bill to make it more specific so that it isn't so general and if someone were to break the rule it couldn't be questioned.

LEG. CRECCA:

I think my concern, though --

CHAIRMAN BISHOP:

I think what he's saying, if you look at it this way, look at the first RESOLVED, I think what Legislator Crecca is arguing is that really should be a WHEREAS. You know, "WHEREAS, we want to have uniformity," and then there should be another RESOLVED which states the specific action that we want to take to achieve that.

LEG. CRECCA:

Yes and no. I agree with you that that could even be a WHEREAS, that's fine, in any type of Omnibus we do. I think -- I guess one of the other things I'm trying to say, too, is I don't want to -- look, let's face it, auction rules a year from now, six months from now may have to be changed now and then. You know, I don't think we should be setting what the auction rules are going to be. For example -- I will let you jump in a second, Tom, but for example, let's say like he said something about accepting cash or certified checks or whatever, there may be, you know, another way that the County later on can take it

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vis-a-vis, I don't know, a debit card or something because the technology changes, because our banking systems change. I mean, I don't think we want to get into the minutia of every rule or the rules of the auction in the sense that we want to be legislating that.

I think if you felt it was necessary that the rules before an auction, that the rules be distributed among those -- among the bidders or they be posted or that they regularly post what the rules of the auction are, that's one thing. But to -- I don't want to start getting into whether or not they should accept checks or, you know, cash and stuff like that, we've got to allow the people who are administering the program to do that, too. So, Tom, did you want to say something?

COMMISSIONER ISLES:

If I could, Mr. Chairman.

CHAIRMAN BISHOP:

Sure.

COMMISSIONER ISLES:

We are required to file with the Legislature the rules and regulations of the auction.

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

If we suggest any changes to that, we're required to notify you. The Legislature then I believe has 60 days to object or veto that before they can then go into effect. So that is a mechanism, as Legislator Crecca brings up, that could also accomplish Legislative oversight as well as management discretion and so forth without codifying it.

LEG. CRECCA:

At that's already in effect you said?

COMMISSIONER ISLES:

Oh, yeah, the rules and regulations have to be filed with the Legislature and they are. If we want to change them they have to come back to each Legislator, all 18, and you have 60 days to comment.

CHAIRMAN BISHOP:

Okay. So your position is it's already addressed, we don't need further legislation.

LEG. CRECCA:

Yeah. The only thing I would say is if you want to include as a WHEREAS clause in whatever bill we draft that first RESOLVED clause, I don't have a problem with that, I mean, you know, I think that's fine. To actually codify it just saying that the rules should be applied uniformly, that's just basic due process. I mean, I don't know, if I'm wrong, I don't know.

CHAIRMAN BISHOP:

Go ahead.

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LEG. FIELDS:

I think we need to keep this in it because if those rules were broken before, and it seems that they were, this would be a way of preventing that from happening. And I think that was the whole purpose of these recommendations, is to prevent it from happening again.

CHAIRMAN BISHOP:

Michael?

LEG. CARACCILO:

Counsel, when are the rules and regulations for the auction process reviewed and approved by the Legislature; annually, when there are changes?

MR. SABATINO:

Commissioner Isles is correct, the way the statute is worded is that if there are going to be changes, the Real Estate Director files those proposed changes with the Clerk of the Legislature who then is supposed to notify all Legislators and then there's a 60 day window of opportunity for the Legislature to react to those and object to them or rewrite them or change them. So it's -- the burden is on the

Legislature to be made aware of the rules as they're being changed. I don't know if they've been changed, you know, in the recent past, I don't know how frequent that event is. I don't recall seeing anything relative.

LEG. CARACCILOLO:

Neither do I and that was my whole point, Mr. Chairman. I would codify this, Mr. Chairman.

CHAIRMAN BISHOP:

Codify, codify, all right. This one is four to one, we'll codify it. Codified (VOTE: 4-1-0-0).

LEG. FIELDS:

In addition, I would ask that your department, or now your department, send those rules to each Legislator so that we can have them and look at them.

COMMISSIONER ISLES:

The current rules?

LEG. FIELDS:

Yeah. Because I think if you are saying that we all can approve them, I don't remember ever seeing the rules. Thanks.

COMMISSIONER ISLES:

Okay. And we are working on some changes actually coming out of the report so we can send those to you when they're prepared.

CHAIRMAN BISHOP:

1378 is the next one?

MR. SABATINO:

The written recommendation in the report on that one says that prior to the next auction, the department head should review the methods

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used to establish the minimum upset price for parcels that are sold at auction.

CHAIRMAN BISHOP:

Shall occur promptly, is that 1378?

LEG. FIELDS:

This was the closing.

MR. SABATINO:

Okay, wait a minute. No, the numbering system doesn't match the book then, okay. Hold on.

COMMISSIONER ISLES:

Okay. 1378? Yeah, okay. Yeah, what you're seeing, Paul, is just the administrative directive I issued to the department. So the book, actually, we skipped that one because that was not a staff recommendation, that was done at a management level. So in terms of

that numbering, it's not going to match up to that. In terms of Mr. Bishop's resolution number, let me look for that.

CHAIRMAN BISHOP:
It's not 1378?

COMMISSIONER ISLES:
No, it is not.

MR. SABATINO:
It's 1367, 1367.

CHAIRMAN BISHOP:
Oh, I see, okay.

MR. SABATINO:
It's 1367.

CHAIRMAN BISHOP:
So Paul's description was correct, the bill that we pulled out was wrong, okay.

1367, upset prices can be no less than the appraised value except otherwise directed by a law that we previously adopted. Okay. Well, why did this require administrative action?

COMMISSIONER ISLES:
The panel reviewed this as part of the overall review of the sale of County property. The question came up as to how do we determine upset value on property be sold at auction. It was noted by the committee that in large part, a fair market value is often obtained at the auction itself, it's a market of a seller, the County of Suffolk and buyers. The question then came up as to that process and the recommendation was that the department head should review the methods used to establish the minimum upset prices. I can report to you that we have done that, this was an internal management review. We have reviewed the process that we use internally for determining upset

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price, we have made modifications to that process and we are moving forward on that for the next auction.

LEG. CARACCILO:
Question.

CHAIRMAN BISHOP:
Sure. Legislator Caracciolo.

LEG. CARACCILO:
At the conclusion of this recommendation, the last paragraph or few sentences reads, "While the section head is very experienced in real estate evaluation, it may be appropriate to review the current system and ensure that it is in the best -- it best represents the fiduciary interest of the County." And obviously, you know, that's what we're all concerned about.

COMMISSIONER ISLES:

Right.

LEG. CARACCIOLO:

Because as we know, the County is now facing a lawsuit wherein certain taxpayers have taken against the County for the purchase of the Chandler and Campo properties. And that's a fiduciary responsibility we all on this horseshoe have and take seriously and I would say that everything we can do to strengthen the County's position, vis-a-vis legislation, that's a recommendation in this report, the better everyone will be for it. There will leave no discretion, there will leave nothing falling through the cracks.

As you know, Tom, and I have said this numerous times to you personally and to others, I have the utmost respect for you, your integrity. I think you've done an outstanding job given what you've been faced with since you've come on board, and particularly in the last four months. But having said that, you may not always be in that position and while I have that trust and confidence in you, I am not sure that I may have that in the next person. Or if your recommendation in this report were to prevail where it comes out of your control and becomes a separate department, with all due respect to Ms. Costigan, I really don't know you, I don't question your integrity at all, nor would I. But again, given recent revelations, I think we all have to be circumspect with how we proceed from this point on.

So I think the more we can do to sure up what might be weaknesses in the past and codify them, that make Mrs. Costigan's job and everyone else's job a lot easier. Because internally there's no discretion.

CHAIRMAN BISHOP:

Right.

LEG. CARACCIOLO:

These are the rules and they have to be followed.

CHAIRMAN BISHOP:

Thank you.

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LEG. CARACCIOLO:

And I think that's why the sponsor is proposing the change.

CHAIRMAN BISHOP:

Well, no -- all right. This resolution directs two things. One is that you do an internal review, you've done that.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

And two is that the upset price be no less than the appraised value

with this one exception which we codified in Local Law 14 of '99; is that already the law, the fact that the upset price cannot be less than the appraised value?

COMMISSIONER ISLES:

No, I'm not aware of that. The upset price has been posted below the appraised value to start bidding at times. The law that I'm familiar with, and I'm flipping my page here, states that the -- my recollection states that the in-house personnel -- yeah, it says here under A-1434-F, "Using such County personnel as is available from time to time, the County Director of Planning shall cause to be made an appraisal of each parcel of land acquired by tax deed." And the way we do that is using in-house County personnel, as now have a certified residential appraiser participating in that as well as property managers who have been in the properties or have seen the properties and aid us in that.

Here again, the question would be do we get a fair market value, do we get the public's value in the land, and we feel that that's done at the auction. We do not, and just to make this clear, we do not get appraisals, outside appraisals on every property on our auction list.

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

We use the appraisal auction method and it's my understanding it's been done that way for many years.

CHAIRMAN BISHOP:

So this would be a specific change which would say that you cannot set the upset price at lower than the appraised value.

COMMISSIONER ISLES:

This would be and we wouldn't suggest that this be done.

CHAIRMAN BISHOP:

Oh, you would not suggest that this be done.

COMMISSIONER ISLES:

No, we don't think it should be done. Because often times we would set the upset price at a little bit below what we think the appraised value of the market value of the property is to stimulate bidding. We would then --

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CHAIRMAN BISHOP:

But this was in the report, correct?

COMMISSIONER ISLES:

I don't think it was.

CHAIRMAN BISHOP:

I mean, Counsel captured the recommendation correctly?

LEG. FIELDS:

Yeah, number three, page 19.

COMMISSIONER ISLES:

Yeah, it does say, "The process has been to estimate value using professional judgment and then to set the price a small amount below that number. This adjustment serves to stimulate bidding," and then the market usually finds itself. So maybe that's just a clarification, but our intent was to enhance the current system of determining upset value using certified staff, number one. And number two, to continue to start the bidding a little bit below we think the market value is. Yeah, I don't think it says anything about appraised value in here, the recommendation.

CHAIRMAN BISHOP:

Any questions that clarify the point, this specific point, you have one? And then Legislator Cooper is next.

LEG. FIELDS:

I have a letter here that I had written to you and you responded with Property Sales by Upset Price, and in May of 1999 there were 294 parcels for sale, the parcels sold were 227 which was 77%, and the parcels sold at upset price were 62 or 27%. November of 2000 there were 170 parcels for sale, 144 sold which was 85%, 20 of those parcels were sold at the upset price which is 14%. In May of 2001, 148 parcels were sold, 138 were sold at the upset price -- rather above it, 93%, parcels sold at the upset price were 21 which was 15%. But what it tells me really is that we are selling property for less than the market value by selling it at the upset price; is that correct?

COMMISSIONER ISLES:

I don't think so. I think we're selling more properties now than we did in the past. It seems to me --

LEG. FIELDS:

But the percentages that I read that you sent to me.

COMMISSIONER ISLES:

Right.

LEG. FIELDS:

The 62 in '99, the 20 in 2000 and the 21 in 2001 tells me that a 82, 103 parcels have been sold at less than the appraised value of the property. So it means to me that we're selling properties for less than what they're worth and to me that would not be, you know, being -- it's not a good thing to do for the County when we need more money.

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COMMISSIONER ISLES:

I don't think we're selling them at less than what they're worth, I think the market actually dictates itself. Most of the parcels seem to be -- we're selling more parcels above appraised upset price than we did in the past, number one. As you indicated, we had about 15% I think in the last auction that were upset price and a fair number of parcels that were not sold at all because apparently we were too high

on those parcels.

We do have a concern with putting the upset price at appraised value because we think that an appraised value, as we've talked about in this forum at many previous meetings, is an estimated value and it may not always be on target, it is an estimate, it is a judgment. We find the auction to be very competitive. Our auction, the County auction has never brought in more than money than prior auctions. In May of 2001 we sold \$8 million worth of real estate, and we have statistics on this going back to the mid 90's where we were selling maybe \$2 million. So I think we're doing pretty well.

LEG. FIELDS:

But what if -- if you're selling the parcels at prices above the upset price, then it means the appraisals are pretty reasonable and they are being sold. But what if you were -- and apparently you're selling them at the upset price which could be less than market value, and it seems that it might be, but what if they didn't sell then you couldn't -- you know, couldn't you just lower the price at some time that you deem appropriate so that you would be getting as much money for a piece of property, especially in these times when we know there isn't that much property available anyway.

COMMISSIONER ISLES:

Well, that's what would happen. If we didn't sell it at an auction, any properties that are not sold we would typically reduce the amount and then put it on for the following auction.

LEG. FIELDS:

But that's what I'm saying. So the upset price is generally lower?

COMMISSIONER ISLES:

Slightly.

LEG. FIELDS:

Slightly lower.

MR. BURKE:

Really the upset price from my experience is the best guesstimate of value of the property. We don't do an appraisal on each piece of property because the cost of it would be -- can be prohibitive. If you're going to have \$500 for each appraisal on 200, 250 lots, that's a lot of money to be spending on an auction.

LEG. FIELDS:

Okay, so it's not the appraisal, but it could very well be and probably is, because I think in testimony when Allen Grecco was here I think he did testify that they were -- the upset price was lower than market value so that you could generate some kind of people coming to

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the auction and wanting to buy property for less than it was. I think if we look back in minutes we might see that he did testify to that.

COMMISSIONER ISLES:

The only other point I'd like to make, and I understand what you're saying, just keep in mind, too, we have a lot of parcels on the County auction that are little strips or slivers and so forth and may not have much use to anyone or much value. We try to come up with an estimated value and we put it on and we don't always sell those. So I think a lot of these that are upset pieces in terms of are we giving away the store, are we giving away public value, I don't think these numbers really show that. I think a lot of those that aren't sold at the auction in my brief time here are typically the ones that don't have much market value, or were too high, were above what the market value is and we have to reset it at the next auction.

We'll be happy to, you know, continue as the next auction goes on to do more analysis of this. Here again, we view the auction as a way of getting rid of surplus, useless properties. As we heard the other night at the Legislature, there are some properties that are a nuisance to the County and so forth, very much so. And as someone once said to me, real estate in the County is a liability, not an asset. So we can move these properties that are strips, that are burdensome to us, they're a cost to the County. A successful auction helps us do that in terms of getting rid of these costs and these liabilities. We do try to do so at fair market value and to return to the taxpayers the money the taxpayers have expended on the back taxes, the penalties and fines and so forth and all the other costs associated with these surplus properties.

CHAIRMAN BISHOP:
Legislator Cooper.

LEG. COOPER:
Tom, I had a few basic questions. I have never been to an auction, I haven't followed this that closely, but could you give me a better idea of the typical parcel that is put up for auction, the size of the parcel and where it's located, is it industrial property?

MR. BURKE:
Legislator Cooper, it's really there is no typical piece of property, it's really across the board. We have industrial properties, big industrial properties, small slivers as Tom referred to all earlier, there's little paper streets sometimes, there's non buildable lots, there's buildable lots, there's wetlands, there's farmlands, it's really -- any number of items can be on an auction. You know, obviously we get the property from tax foreclosure; there isn't one particular property that we face.

LEG. COOPER:
And what is the procedure that's used right now to determine which parcels are appropriate for park purposes or affordable housing or something like that, or which are deemed surplus and therefore are to be put up for auction?

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COMMISSIONER ISLES:
That's a very important part of the process and we do have steps in place to ensure that the County or we try to avoid the County selling

land that has public purpose. The general approach we have to this is we actually take a parcel by tax deed, it is surplus at that point, we pass the redemption period, we then do an evaluation, is there any County purpose to retaining this property. County purpose would include parks, as you indicated, drinking water protection areas, wetlands, parcels that serve a purpose for a County facility perhaps, public works for drainage facilities and so forth. So first on the list would be a County purpose, second would be other municipal purpose such as the towns and villages. They are given an opportunity to request to the Legislature what's known as a 72-h Transfer under General Municipal Law. The County has participated in that both for affordable housing, for parks and environmental protection purposes. And here again, it's a public purpose that takes precedence over private purpose. And the last category would be if there's no County interest or there's no other municipal interest, then the parcels are deemed to be ready for auction as surplus County properties. That's the process that's done.

In terms of the specific determination of County interest, that's done by a number of different departments but I can tell you the Planning Department plays I would say the lead role in that, we have planners that specifically go through every single parcel on that list. And since the commencement of the Affordable Housing Program, we also review the list for those parcels that may be candidates for affordable housing as well in the Planning Department office.

LEG. COOPER:

How is it specifically that we publicize the list of properties that are being put up for auction, is it done on the Internet?

COMMISSIONER ISLES:

Once we come up with a list of parcels to -- and we set a date for the auction, we do a number of things. Number one, we're required to advertise in the official newspapers of the County that the auction is coming up, the date and time and place and so forth. We prepare a brochure of all the parcels which we distribute widely including to the Suffolk County Cooperative Library Board in terms of all the sixty some-odd public libraries in Suffolk County. We also distribute them to the towns as well. The brochure is also available on the County website with a listing of all the parcels available for auction.

LEG. COOPER:

And getting back to one question that Legislator Fields had raised, and I'm a little bit confused as to what the situation is. Are most parcels sold below estimated available, which seems to be the information that Legislator Fields has, or are most of them sold significantly above the estimated value which was in the report?

COMMISSIONER ISLES:

Well, certainly none are sold below the upset price. So once the upset price is the minimum price posted at the auction, no bids are accepted below that. The question then is what is the upset price and typically the upset price is a component of the estimated value of the

property. So through various experts in the Real Estate Department we will estimate what a value of a property is, vacant land, a built house, whatever it is, we will typically make -- either put it on the upset price for that amount or some slight adjustment of that amount. So nothing is sold below the upset amount, number one. And number two, in terms of a general answer to your question, if we add up the total upset prices in an auction and see what we actually sold property for, my understanding is it's about a two to one ratio. So at our last auction we sold about \$8 million worth of real estate, the upset price was apparently in the range of about \$4 million. So it's typically a two to one ratio.

And what happens, too, keep in mind that at an auction you can actually go above market value, that people do over pay we think. There is kind of an enthusiasm that gets to be part of the process, that's their choice. But in my discussions with some of the experts in the Real Estate Department, they do believe it happens from time to time.

CHAIRMAN BISHOP:

We've got to try to focus our questions and our answers as well.

COMMISSIONER ISLES:

Okay.

CHAIRMAN BISHOP:

Legislator Caracciolo, do you have a question on this?

LEG. CARACCIOLO:

Uh-huh. Tom, I want to go back to the data that Legislator Fields recited and make sure that I, like Legislator Cooper, did not misunderstand what was said. We don't have a copy of that, Ginny, if you could perhaps share that with us at a later date. But just quickly to recap, I wrote down some of the statistics and it seemed in three instances that I recorded we sold properties in the 14, 15 or 27% of the properties sold were at the upset price which would suggest the remainder were not, or perhaps they were not sold or a combination of both. And I think all of us can understand sometimes you just have property that no matter what you want to sell it for there aren't buyers interested. But I guess the focus that I'd like to key in are those large parcels where Mr. Toussie and others who are very frequent buyers of County surplus properties; what typically would be the type of property he would seek in terms of acreage? It wouldn't be the small parcels, it would be the larger parcels, or sometimes maybe some small ones too. But just an answer or a comment or two about that.

In other words, when you look back over the decade plus that he was a frequent buyer of County properties -- how much property has he purchased from the County, anyone know? Would it be a few acres, would it be a few hundred acres?

MR. BURKE:

Cumulative?

LEG. CARACCIOLO:

Cumulatively, yes.

MR. BURKE:

I mean, obviously I've only been here in the County for a few areas, but I would say yeah, a few hundred I would say. And that's just purely a guess but it's certainly not a few acres.

LEG. CARACCIOLO:

Okay. When we are selling large tracts of vacant land or --

MR. BURKE:

That would be cumulative. I don't think that in any one auction there was a 50 acre piece.

LEG. CARACCIOLO:

I understand. Jim, I understood your answer. But again, for purposes of clarification, when we're talking about large tracks of either vacant land which may be zoned either residential or commercial or industrial.

CHAIRMAN BISHOP:

You mean lots, right, lots of lots.

MR. BURKE:

Lots of lots, a lot of small lots is my understanding.

LEG. CARACCIOLO:

Fine.

CHAIRMAN BISHOP:

We don't sell large tracks of land.

LEG. CARACCIOLO:

Well, we're not really sure what he bought and maybe we should --

CHAIRMAN BISHOP:

I don't think we sell large tracks of undeveloped --

LEG. CARACCIOLO:

We should find out what he bought and where he bought it.

CHAIRMAN BISHOP:

It would be a great shock to everybody in the county if we did.

MR. BURKE:

Yeah, very rarely would --

LEG. CARACCIOLO:

But the larger pieces of property in the last year or two, because I know Mr. Grecco was very proud of his record at the auction block, if you will, 40 plus million as you recited earlier. What percentage of that total would have been pieces of property five or ten acres in size or greater?

MR. BURKE:

I don't have that information in front of me. I would say very, very minute, probably less than 1.% the most lots that we sold are, you know, half acre, \$200,000 deals, you know, house lots perhaps, houses,

lots that had dilapidated houses on them; that's the bulk of the auction.

LEG. CARACCILOLO:

Okay. Now, there's another practice that's existing where -- and I have a situation that I just brought to Legislative Counsel's attention before this meeting, I'd like him to look into it. I have a constituent who apparently was in arrears on taxes. The County took a tax deed and there's a license agreement that's been in effect between this individual and the County and there were certain conditions and preconditions that had to be met, I guess, for her to stay in this home and apparently one or more of those conditions were not met like paying her rent. And as a result, she just received a notice and her attorney just contacted me that the County is going to ask her to leave at the end of the month.

Now, that said, I'm just curious in terms of this whole inventory of properties that the County manages; like this one, what category is that in? And at some point in time, who makes a determination as to whether or not we should continue to let someone living in a home that if it were in the open market would probably rent for \$2,000 a month, stay in it for \$800 month. And as I understand late information, this person actually was subletting the property to somebody else and apparently the County as of tomorrow is going to meet with the subletters and execute a license agreement with them. And I don't understand that whole thing, but I'd like to know why isn't the County, since we have a tax deed, it's a valuable piece of real estate, why isn't that going to the auction block?

CHAIRMAN BISHOP:

Michael, I'm going to --

LEG. CARACCILOLO:

I know I went off on a little bit of a tangent.

CHAIRMAN BISHOP:

I'm going to direct that they respond in writing to you. It's an important issue you've raised.

LEG. CARACCILOLO:

Thank you.

CHAIRMAN BISHOP:

They will respond in writing, but I've got to get this meeting back on tract.

LEG. CARACCILOLO:

Can I just add one postscript to that, Mr. Chairman? I would recommend and request as of this afternoon that we do not meet and sign any future license agreements with anyone, including the subletters, until some questions that I have about this are answered. Mr. Isles, I understand you're --

CHAIRMAN BISHOP:

I don't know if you have that authority, Mike.

LEG. CARACCILOLO:

Well, it's a request.

CHAIRMAN BISHOP:

All right.

COMMISSIONER ISLES:

We will respond in writing.

CHAIRMAN BISHOP:

In writing, okay. Now, let us get back to this specific proposal, and I am going to try again to bring it back to that. It says to conduct a review, you've done the review, and then it said to use an appraisal, you say we don't use appraisals, we use educated guesses, that's how I'm going to describe it, of value. Therefore, this resolution as it's written doesn't reflect the report and you would urge that it not be adopted, I assume Legislator Crecca agrees.

LEG. CRECCA:

Well, I hate to sound like a broken record because I am -- I actually believe that we should do a bill and move forward and codify most of these recommendations, let me qualify with that. My only concern is, having done a lot of real estate closings and dealt a lot with real estate agents on just a regular open market, my concern is is that, look, appraisals are appraisals, that's just what they are. We're going to sell some just like we sell a certain percentage well over the appraised value, we're going to sell some below appraised. I don't want to hang on to a load of County properties.

CHAIRMAN BISHOP:

Absolutely.

LEG. CRECCA:

So there's got to be some discretion for them to sell below appraised value. Obviously maybe we'd want to codify and put a cap on that, no more than 20% below appraised value or whatever, I don't know.

CHAIRMAN BISHOP:

They don't have an appraised value, that's just the point. And the question the way this resolution is written is that we would be requiring hundreds of appraisals a year at great cost to the taxpayers and it would probably produce little impact. Because if there is one thing where you can rely on the market, it's at an open auction and you have the best or the least opportunity for mischief at an open auction I would argue. So, since this is an open auction, this specific codification is not necessary; we agree, do we disagree?

LEG. CARACCILOLO:

Put it to a vote.

CHAIRMAN BISHOP:

Put it to a vote. Andrew? Legislator Crecca, rather.

LEG. CRECCA:

Yeah, I'd make a motion not to codify it. If anything, we should concentrate on making the auctions more open.

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CHAIRMAN BISHOP:

All right. Legislator Fields, do you agree?

LEG. FIELDS:

I will agree with the rest of the panel and I think if there were a future problem where we saw that something was amiss, we could put in a resolution to change that; perhaps make it, instead of appraised value, market value or something.

CHAIRMAN BISHOP:

Michael, are you in?

LEG. CARACCILOLO:

Sure, why not.

CHAIRMAN BISHOP:

That one is unanimous. Rejected (Vote: 5-0-0-0). At this pace, we'll be out of here -- next one.

MR. SABATINO:

The next one is 1378, that's the recommendation in the report that states that closings of property sold at auction should occur promptly and extensions of time should be granted subject to specific criteria.

CHAIRMAN BISHOP:

What is the specific criteria? I think that's -- given what we've heard, that people were able to bid at the auction and then delay, tie up the property, claim it as their own, but not forced to close on it for years or able to delay it for years, this seems obvious that we need to adopt this. What I want to know is what is the specific criteria to provide the extension; is it perhaps notification of the County Legislature or do you want to have a specific set of circumstance?

COMMISSIONER ISLES:

Well, this is -- as you pointed out in your bill, the recommendation was that there should not be extensive delays on the closing of property. And in fact, there is a Legislative requirement for a two year deadline on closing of properties, so that's probably adequate in itself. And this is another case where the committee didn't want to feel like we were not considering this so it was considered, it was acknowledged that should be a prompt closing, and the backstop to that is a Legislative requirement that we can't go past two years, if we do we have to report back to you on that and explain to you why.

LEG. CRECCA:

May I ask a question? I want to ask a question about that. First of all, why two years because that's a very, very -- a long time. Second of all, in the contracts that they sign at the auctions, what is the -- do you put an on or about closing date?

COMMISSIONER ISLES:

In terms of the two years, by the way, that's the current requirement that was passed by Legislative resolution I think sponsored by Mr. Levy a couple of years back, so that's where that came from, number one. As far as the delays in closing, I'd like to defer that to

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Mr. Burke, but we do run into title problems and issues and I think notice issues, too.

LEG. CRECCA:

Jim, but if you could address what it says -- they sign a contract at the auction itself, correct, or a binder?

MR. BURKE:

It's a Memorandum of Sale, it's a one page document.

LEG. CRECCA:

In that Memorandum of Sale, does it include an on or about date for closing?

MR. BURKE:

No, there's no specific on or about closing date.

LEG. CRECCA:

Wouldn't we normally -- I mean if someone is bidding on a piece of property, there should be reasonable anticipation on their part that they're either going to obtain financing or can obtain financing for that property within a reasonable period of time. What I would suggest is why aren't we putting in those memorandums for the closing to take place on or our about, you know, within four months so it gives the County some -- I mean, it's only to our advantage as a seller to have an on or about date because the bottom line, as you know, that puts us in some sort of timeframe to close this property.

CHAIRMAN BISHOP:

I would argue that I agree with that. Perhaps four months in the memorandum, outside date of one year unless the Legislature specifically says you can have another year.

LEG. CRECCA:

Authorizes otherwise. And I would ask that Counsel --

CHAIRMAN BISHOP:

Is that an objectionable process? I mean, that would seem to be common sense.

MR. BURKE:

No, it makes sense. We do face many times large title issues on these properties.

CHAIRMAN BISHOP:

Right.

MR. BURKE:

Multiple liens, there's Federal tax liens, there's State tax liens. You know, the reason why these properties are in foreclosure is because there's usually serious problems with things happening with the prior owner of the property.

LEG. CRECCA:

Can I make a suggestion?

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CHAIRMAN BISHOP:

Sure, that's why we're here.

LEG. CRECCA:

Maybe we do make it six months because -- that is a good point, because title problems do take time to clear up. Why don't we make it six months, it's still a reasonable amount of time. I would ask that the Levy Bill which says two years now, that we amend that to be one year without prior Legislative approval, you could always come to the Legislature to extend it a year explaining to us what the problems are, so that we don't leave properties out there two years without being closed. Counsel?

LEG. FIELDS:

Can I ask what -- can I ask what the intent of the Levy Law was?

LEG. CRECCA:

I'm calling it the Levy Law, I shouldn't --

LEG. FIELDS:

Yeah, Local Law 23.

MR. SABATINO:

The Levy Law was a reaction to two things. One, there were allegedly extraordinary delays with regard to acquisitions where the County would authorize an acquisition but the deal wouldn't close. And then because Budget Review had identified some parcels that had not closed for a substantial period of time, a concern that we weren't closing in a timely fashion. So Legislator Levy had originally asked for a really tight deadline, but the Director of Real Estate at that time, according to Legislator Levy's conversations with me, objected strenuously to that proposal and I went through six or seven corrected copies or drafts before we finally got the two year version on the record. So it was difficult to get the two years, but the two years tracked, it was two years on the acquisition side and two years on the selling side. What we didn't know at that time is what, you know, was disclosed in the papers.

CHAIRMAN BISHOP:

Does the deal extinguish automatically at the end? If it's two years and a day, you know, there's no deal or it's just the County option?

MR. BURKE:

I believe it's County option at this point.

COMMISSIONER ISLES:

We're required to come back to the Legislature.

MR. BURKE:

Right, we'd have to -- right.

CHAIRMAN BISHOP:

Good.

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CHAIRMAN BISHOP:

So why don't we -- do we want to roll it back to a year and it becomes a County option, you can come back to us after.

MR. BURKE:

Yeah. Because it generally takes a few months for this Legislature to approve the auction, too, so we can't do anything until you get final approval of the auction from this Legislature. That generally takes about two to three months after the auction, date of the auction.

CHAIRMAN BISHOP:

So to recap, it's six months on the memorandum.

LEG. CRECCA:

Well, let's ask them about that.

CHAIRMAN BISHOP:

Is that all right, or do you want to --

LEG. CRECCA:

To close within -- if it takes them two or three months to approve it, that doesn't mean they can't go out --

CHAIRMAN BISHOP:

Or just that you shall be prepared to close on or about six months from the date of the auction.

MR. BURKE:

That's reasonable.

CHAIRMAN BISHOP:

I mean, you can't get that deal in the private sector.

MR. BURKE:

Oh yeah, no. As I said, these are usually not like private sector deals.

CHAIRMAN BISHOP:

Right. But I'm saying, it seems reasonable.

MR. BURKE:

Right, I agree.

LEG. CRECCA:

And make sure we -- if you change the law to the one year, I think

it's a very good idea, just make sure there's an exception there where you can come back to the Legislature to extend beyond the year.

CHAIRMAN BISHOP:

So it's six month on the memorandum, one year on the Legislative; Paul, do you have that?

MR. SABATINO:

I'm writing it down.

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CHAIRMAN BISHOP:

He's got it.

LEG. CRECCA:

On the County's -- right, it's the County's option, obviously.

CHAIRMAN BISHOP:

Is that one unanimous?

LEG. FIELDS:

Yes.

CHAIRMAN BISHOP:

Oh boy, that was a record, seven minutes on that one. Very good. Legislator Caracciolo is not in the room, so just note that. (Vote: 4-0-0-1 Not Present: Legislator Caracciolo).

MR. SABATINO:

Okay, the next one is IR 1380 which tracks recommendation five. The recommendation as stated in the report is that -- IR 1380 is the bill but the recommendation was number five. This states that the deposit fee --

CHAIRMAN BISHOP:

List Legislator Caracciolo with the majority. Approved (Vote: 5-0-0-0).

MR. SABATINO:

It should be IR 1380.

COMMISSIONER ISLES:

No, I think --

MR. SABATINO:

It states that the deposit fee required following a successful bid on a parcel -- I'm sorry. Hold on a second.

COMMISSIONER ISLES:

Yeah, we have a couple of sheets going around here.

MR. SABATINO:

It's 1380, I'm sorry, it's 1380 -- 1360, 1360, 1360. The recommendation in the report is that the deposit fee required following a successful bid on a parcel at County auction should

require payment of 20% of the upset amount in certified funds or cash with the balance permitted as payment with uncertified funds.

CHAIRMAN BISHOP:

How is this different than --

MR. SABATINO:

Well, I think -- this one I had a little bit of trouble with. I think the language got tangled up in the recommendation. Because it says that 20% of the purchase price should be paid in certified funds; I think what they meant was that the down payment at the time of the

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auction is to be in certified funds, but not to imply that the balance of the purchase price shouldn't be in certified funds or cash.

LEG. CRECCA:

Well, can -- Mr. Chairman?

CHAIRMAN BISHOP:

Why don't we hear from --

MR. SABATINO:

I just think the language got tangled up. I think it needs a little explanation.

CHAIRMAN BISHOP:

Why don't we hear from the report writers what they meant to say and then we'll work from that.

COMMISSIONER ISLES:

I'll try to brief as possible, but currently the rules and regulations of the auction require that a successful bid at the general County auction, the placement of 20% of the bid amount must be paid that day in cash or certified funds. The committee felt that consideration should be given to the idea of requiring the 20% cash or certified funds for 20% of the upset amount only. The reason for that is that obviously bidders don't necessarily know going into the auction what the final price is going to be, they potentially need a fair amount of cash in their pocket or a certified checks in their pocket. And it seems to -- it was a concern of the committee that perhaps this favors the larger investors or developers and so forth where one effort may be making an equal playing field, it would be that you know going in that at least 20% of the upset price has to be in certified funds or cash and the balance could be other funds such as a personal check for the deposit only; this would, we feel, level the playing field a little bit.

And then secondly, in terms of the downside to the County would be if the personal check bounces, what do we do at that point, what sort of risk do we put us in?

CHAIRMAN BISHOP:

The next auction.

COMMISSIONER ISLES:

Obviously we can seek payment or if they don't we can cancel the sale if they don't come through with that. So we feel it's a slight risk to the County, not a great risk, and we feel the benefit is that it makes is easier for John Q Public to estimate the amount needed that they have to draw from the bank before coming into the auction. So we feel that that makes it a little bit easier and a better bidding environment.

CHAIRMAN BISHOP:

Is that clear?

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LEG. CRECCA:

But for the last part. So you're saying that you want to accept personal checks now?

COMMISSIONER ISLES:

We're saying for the -- yes, personal checks for the deposit above the 20% of the upset amount.

LEG. CRECCA:

Can I make a suggestion, though?

CHAIRMAN BISHOP:

So the upset amount --

LEG. CRECCA:

Why not keep it simple and just -- go ahead.

CHAIRMAN BISHOP:

Because here's what happens.

LEG. CRECCA:

No, I understand the logic.

CHAIRMAN BISHOP:

Well, I'm just going to -- it helps me to understand myself. So if a hundred thousand is the upset price, then you are to come to the auction with \$20,000 certified. If it sells for 125, then the difference between the 20,000 and the --

MS. COSTIGAN:

The other 5,000.

CHAIRMAN BISHOP:

Five thousand, thank you, could be in a personal check.

LEG. CRECCA:

That's fine. I was going to try to make the process even better and that was just like when we do foreclosure sales, I'm a referee and we sell -- we just do 10% of the purchase price in certified or cash. What I would recommend is, and you tell me if this is a problem, why not accept 10% of the purchase price instead of 20% of the purchase price? And if you wanted to put some sort of caveat in there, you

know, for an additional amount or something like that, that's one thing, within a certain amount of days, but I think it opens up --

LEG. FIELDS:

A serious buyer would pay 20%.

LEG. CRECCA:

What's that?

LEG. FIELDS:

I think a serious buyer would pay 20%.

LEG. CRECCA:

Well, yeah. But the thing is, too, is you may be excluding bidders and

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thereby getting lower prices by someone who's sitting there who doesn't have, you know --

LEG. FIELDS:

It would be a check.

CHAIRMAN BISHOP:

I think what they're looking for is predictability.

LEG. FIELDS:

Right.

CHAIRMAN BISHOP:

By going with 20% of the upset price, you know when you walk to the auction, arrive at the auction --

LEG. CRECCA:

They don't know what the upset -- the upset prices are listed on the auction list?

MS. COSTIGAN:

Yes, they're listed.

CHAIRMAN BISHOP:

That's what the theory is.

MR. BURKE:

It's also a security concern. It would reduce the amount of cash there and it would reduce any attempt at, first of all, losing any cash and, second of all, the safety of the employees handling the cash, transferring the cash from the hotel where the auction is held to the bank.

COMMISSIONER ISLES:

An undisclosed location.

LEG. CRECCA:

Why not lower it to 10% in general, or you feel that that's not enough to lock a buyer in?

MR. BURKE:

I think 20% of the upset bid is more than fine. I mean, there hasn't been any -- I know that it hasn't impacted people's desire to bid on property.

LEG. CRECCA:

Okay.

LEG. FIELDS:

Would you not also have more serious buyers when they give you 20% rather than 10%, you might lose the sale?

MR. BURKE:

Hold their feet to the fire a little bit, sure.

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LEG. FIELDS:

Especially when you get caught up in an auction.

CHAIRMAN BISHOP:

I think it's a good idea.

LEG. CRECCA:

Yeah, it's --

CHAIRMAN BISHOP:

Yours is just as good.

LEG. CRECCA:

But you know what? They worked a long time on theirs, so let's go with theirs.

CHAIRMAN BISHOP:

Okay. Thank you.

LEG. CRECCA:

But we have to obviously change the wording, but I think Counsel knows that right now, right?

MR. SABATINO:

Yeah, I just marked it up based on the explanation.

LEG. CRECCA:

Very good.

CHAIRMAN BISHOP:

All right. We're all good on that one? All right, another 5-0, you're rolling. Adopted (Vote: 5-0-0-0).

COMMISSIONER ISLES:

Good.

MR. SABATINO:

Okay, the last one in this section is IR 1380 and it's Item No. 6

which said that all closing costs should be paid with certified funds.

LEG. CRECCA:

David, before you move on to the next one. On that one there, though, it's part of the rules that we approve, so we don't really have to codify it into a statute. Wouldn't it be just changing the auction rules, correct?

MS. COSTIGAN:

This is closing costs.

MR. SABATINO:

I don't know what --

LEG. CRECCA:

No, I'm going back to the deposit.

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MR. SABATINO:

Again, I don't know what generated this, I don't know what formed the basis for it so I'd have to really listen first. I just tried to track the language.

LEG. CRECCA:

No, no, I'm backing up again to the last one we just did, the 20% of the upset price? That would just become -- we're just going to do that as part of the auction rules that we approve, correct?

COMMISSIONER ISLES:

The auction rules and I'd have to check with the County Attorney on that, or just the practice of our requirements for closing, that's all.

LEG. CRECCA:

Right. We don't want to codify that in omnibus, do we? I mean, that would be sort of silly, that's part of the auction rules.

MR. SABATINO:

Well, no. I think -- if it was previously in the rules -- what was -- it was not in the rules.

COMMISSIONER ISLES:

Honestly, I'm not sure if it's in the rules or was in the rules.

MR. SABATINO:

Apparently something must have happened where closings occurred without getting payment, so apparently somebody didn't have something to point to.

COMMISSIONER ISLES:

Well, the example that we came up with on the panel was that we did find at least one closing where closing funds were paid with a personal check, at least a portion of them. We looked at -- and the check didn't bounce but --

MR. SABATINO:

But it's a bad practice and it's very dangerous for the County, absolutely.

COMMISSIONER ISLES:

Right. We shouldn't be doing that and we just made it clear here, that it has to be certified funds at closing.

CHAIRMAN BISHOP:

(Inaudible).

MR. SABATINO:

It's malpractice if you go to a closing and you take a personal check on behalf of your clients, so it is a serious matter.

LEG. CRECCA:

Yeah. What I'm saying is that obviously we should get a whole new set of auction rules based on what we're doing here. That is an auction

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rule, that's not going to be -- we're not going to codify and statute this 20% thing, or should we?

MR. SABATINO:

It's up to the committee.

CHAIRMAN BISHOP:

By the way --

MR. SABATINO:

You codify something that's now a binding standard, obviously it was a problem.

CHAIRMAN BISHOP:

-- but I always tell a purchaser to bring their personal checkbook. I don't know what you consider malpractice, but --

LEG. FIELDS:

But again, obviously something happened in the past to present this as a recommendation. So again, what you would want to do is make sure that you have the recommendation so that people are accountable and that they don't break the rules. And then later on you can worry about whether or not the auction rules apply to what we have just approved here today or, you know, you can update your rules. But I think we should definitely make this so that no one can abuse the practice that normally they shouldn't.

CHAIRMAN BISHOP:

What do we want to do? I'm with Andrew but our --

LEG. CARACCILO:

Well, I have a question.

LEG. CRECCA:

We're Legislatively approving the auction rules.

CHAIRMAN BISHOP:

We have to have a question before we --

LEG. CRECCA:

We're legislatively approving the auction rules, okay, we have to every year.

LEG. CARACCIOLO:

Who said that?

LEG. CRECCA:

That is really how much down --

LEG. CARACCIOLO:

Whoa, whoa, whoa, whoa, you weren't paying attention before, that's not the way it works. We just had the Director of the Planning Department say he's not sure what this provision is in the rules.

LEG. CRECCA:

Correct.

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LEG. CARACCIOLO:

So there are very few people --

LEG. CRECCA:

And I'm saying --

LEG. CARACCIOLO:

And I would dare submit there's probably not one Legislator who is familiar with the rules and regulations of auctions.

LEG. CRECCA:

What I am suggesting is that this be mandated that we as a committee require that this be made part of the auction rules, what we just discussed, and that the auction rules in order to be changed has to come back to us for approval, that's my understanding.

LEG. CARACCIOLO:

Well, the question I had, Mr. Isles, was --

LEG. CRECCA:

I'm not done, Legislator Caracciolo.

LEG. CARACCIOLO:

Well, I have a floor, I believe the Chairman recognized me.

LEG. CRECCA:

Whatever.

LEG. CARACCIOLO:

Mr. Isles, what formed the basis for this recommendation? Was there one, two or more occurrences that the committee determined that --

COMMISSIONER ISLES:

The committee became aware of one case where this did happen a couple of years ago. It's not happening presently but we just wanted to make it clear that it shouldn't happen and that's why it was expressed in this manner.

LEG. CARACCIOLO:

Okay. Just give us a summary of what that one case was.

COMMISSIONER ISLES:

It was a sale of surplus County property. The buyer paid for the property at closing with some certified funds and with some personal check funds.

LEG. CARACCIOLO:

What were the amounts involved, were they insignificant?

COMMISSIONER ISLES:

No, they were significant amounts.

LEG. CARACCIOLO:

I would have thought so. I don't think something would have wound up in this report unless there was -- it was significant, okay? So I make a motion, Mr. Chairman, to codify this recommendation.

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CHAIRMAN BISHOP:

Do we agree?

LEG. FIELDS:

Yes.

LEG. CRECCA:

Codify them where?

LEG. FIELDS:

Can I ask? You said that the auction rules have to be looked at. It's probably going to -- this answers your question I think. The auction rules have to be looked at, it may take them awhile to look at them and review them and have them updated, so I would rather see that this is changed immediately than to wait for the auction rules to join together with these.

COMMISSIONER ISLES:

Well, we could --

LEG. CRECCA:

It's just as easy to change the auction rules as it is to change a statute. And the bottom line is that, you know, the auction rules -- you want to make a requirement that the auction rules have to come before us every year to be approve, I'm all for that. But, you know, as a practicing attorney, you don't want to start legislating the down payments and things like that. Do you want to make sure that it's done right and the way you're talking about it? I agree a hundred percent on the merits. I am talking about from a procedural point of

view, you don't want to create a County law, okay, that says that there has to be 20% of, you know, the upset price at a County auction.

LEG. FIELDS:

Why not?

LEG. CRECCA:

Because that's why we have auction rules. If we're going to do that then let's not have auction rules. You know, I do sales for the County as a referee on a regular basis and there are rules that go with each auction, that's the whole idea behind it, so that everybody is at an even hand, that should be codified in auction rules -- I don't do that many, Rick, don't worry about it. You can check the record. But there should be rules that apply to the auction, that's the whole idea of having auction rules. Those auction rules --

LEG. FIELDS:

How long would it take?

LEG. CRECCA:

It should --

LEG. FIELDS:

How long would it take to do the auction rules, to have them presented?

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COMMISSIONER ISLES:

Yeah, we have to do them.

LEG. FIELDS:

But how long would it take to get those?

COMMISSIONER ISLES:

Let's say within six to eight weeks.

CHAIRMAN BISHOP:

Let me just try to reign this in. There were some major problems with the Land Purchase Program and also with our Land Sale Program; this certainly was not one of them. This is a minor issue and we should deal with it on this scale and not spend so much time on something minor when we have major issues to deal with. So let's just take a vote on this. And I think you're going to lose the vote because she has --

LEG. CRECCA:

But you are creating --

CHAIRMAN BISHOP:

I agree with you, but let's move on. It's a minor issue. You want to codify it?

LEG. COOPER:

Not codify it.

CHAIRMAN BISHOP:

Not codify it, okay. You want to codify it?

LEG. CARACCILO:

Yes.

CHAIRMAN BISHOP:

Yes, you're a yes, two to three, it's not codified.

Rejected (Vote: 2-3-0-0).

LEG. CRECCA:

I would like to see -- I think this committee should vote to put it in the auction rules, I would put a motion that it be included in such a rule.

CHAIRMAN BISHOP:

Why don't we -- at the end we will have also other suggestion section and we will consider other suggestions also. We're going to do our due diligence in this process but we're going to do it in an organized fashion. All right, next one.

MR. SABATINO:

That completed the sale side, now we turn to the acquisition side.

The first recommendation would tie into IR 1360 -- 1383, I'm sorry, 1383.

CHAIRMAN BISHOP:

1383.

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MR. SABATINO:

And that one in the report stated that the appraisers utilized by the County for acquisitions should be reviewed by the Legislature on a more frequent basis.

CHAIRMAN BISHOP:

Okay. Why don't you tell us how are the appraisers selected in the first place.

COMMISSIONER ISLES:

The appraisers that are authorized to be hired by the Real Estate Division are selected presently or are recommended presently by the County Treasurer to the County Legislature.

CHAIRMAN BISHOP:

Ah.

COMMISSIONER ISLES:

It's kind of an odd arrangement. Apparently there was a period of time where the County Treasurer's office had jurisdiction of real estate, apparently it lasted a very short period of time and it was never corrected to reflect it to either the Division of Real Estate or the Department of Planning.

Nonetheless, the County Treasurer then submits a list of the

appraisers that are suggested to the County Legislature that should be utilized for the purposes of appraisal review or appraisals. The Legislature then reviews that and makes a determination, from that the Real Estate Division must work from that list.

The last time that this was done was in 1997, apparently, the last approved list by the Legislature. We think it's probably more appropriate to do it more frequently and so what we're suggesting is that we work on our end, on the Executive Branch end in formulating a list, number one. Number two, the County Executive has submitted legislation to transfer the responsibility for generating the list of appraisers from the Treasure to the Real Estate Division of the Department of Planning. And then secondly, we're recommending this be done on a biannual basis.

CHAIRMAN BISHOP:

Would it surprise you, Mr. Isles, because you have a certain pristine quality about you, that this is an area that has been suggested to me that is ripe with patronage abuse and that qualified appraisers who are not, quote, friends of the powers at be have been denied a place on the list, and that perhaps other people who are less qualified have prominent places on the list; not only are on the list but are frequently selected?

COMMISSIONER ISLES:

Well, as I said, the list itself is approved by the Legislature, I think it should be done more frequently.

CHAIRMAN BISHOP:

(Inaudible).

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COMMISSIONER ISLES:

As far as -- there's another component to this which is a later resolution, actually. We then get down to the question of, well, once we get a list from the Legislature of 30 appraisers that are licensed and so forth, how do we pick those appraisers. And that's not easy, number one, and number two, it is something that could be ripe or subject to some discretion as to how that's done. Unfortunately, you can't get away from the discretion, and I don't want to get off the topic, sir. But on the other hand, what we have suggested in the report is that there be some sort of written criteria for the selection of appraisers and so we are proceeding on that as well. So that's my answer to the question, sir.

CHAIRMAN BISHOP:

All right. I think that this might be an area that requires separate legislation, I think we need appraisal -- appraiser reform. We need the selection of the appraiser to be -- to ensure professionalism and detachment from crass politics.

MR. SABATINO:

Just to correct the record, Mr. Chairman, it was 1375, I apologize.

LEG. FIELDS:

Does anyone disagree with me or agree with me that there would be nothing wrong with making this list an annual list rather than a biannual list?

CHAIRMAN BISHOP:

No.

LEG. FIELDS:

And, you know, if it were -- if you know the list is going to expire in December you start to review it and you put a new list out together in September so it's approved and ready to go in January? Just because we did read a lot of information in the newspaper about certain appraisers being indicted and so forth, I would never ever want to see that appraiser on our County list and used once we know that there is some question about the integrity of the appraiser. And I would definitely want a list annually.

CHAIRMAN BISHOP:

Yeah, I agree. Who's writing up the criteria?

COMMISSIONER ISLES:

We are.

CHAIRMAN BISHOP:

When will it be ready?

COMMISSIONER ISLES:

Soon. Honestly --

CHAIRMAN BISHOP:

I mean soon like we should wait for it for this Omnibus bill or soon --

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COMMISSIONER ISLES:

We have to meet with the County Attorney very soon, I think in the next week or so. So we have progressed with that along with the eight million other things we're doing, but we consider it important too.

And just two other comments, to echo Legislator Fields' points. Number one is that one of the other recommendations does call for requirement for a disclosure statement with every appraisal bid submitted to us. So in terms of identifying potential conflicts -- if an appraiser just did work for a major developer in a major project or a series of major projects, maybe we shouldn't hire that developer to do the appraisal of the land that we're going to buy from that developer, so that's one part of it. The other part of it is the reason for the two years was the cycle of the Legislature so that any new Legislature coming in could do it. And then thirdly, the panel has recommended that on an annual basis licenses and so forth be submitted to the Director of Real Estate as showing proof of maintaining status and so forth. That is required to be reported to you, too, on an annual basis.

CHAIRMAN BISHOP:

I had a -- clearly we need to update it. I had a constituent who is dealing with the Real Estate Division, was directed to use an appraiser on the County list and call through and the first two that they called were out of business, so the list is clearly outdated. I think that -- I'm anxious to include this as part of the Omnibus because this is a very important aspect of what we need to do and what went wrong.

LEG. CRECCA:
Yes.

CHAIRMAN BISHOP:
But I want to get this criteria and include that into the Omnibus as well.

COMMISSIONER ISLES:
Okay.

LEG. CRECCA:
We can do it as a stand-alone, too.

CHAIRMAN BISHOP:
Right. I know we can do it as a stand-alone, that's why I'm having this dialogue out loud.

LEG. CRECCA:
Well, no, I'm just saying, it might be more effective if we do it as a stand-alone resolution and not part of the omnibus. It doesn't matter either way, I would be in favor of it either way, I just think it might be more practical to do it as a stand-alone.

CHAIRMAN BISHOP:
Well, let me make this point. After we're done today, Counsel will put together an Omnibus, that gets filed at the next General Meeting as a resolution and then we have to have -- it has to come through

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committee. Certainly by that time -- which is one, two, three, four weeks away, right -- you will have your criteria and then we can --

COMMISSIONER ISLES:
I think so.

CHAIRMAN BISHOP:
We can add it then. So I would agree with Legislator Fields, it should be annual, an annual vote of the Legislature. We do banks, we do a whole host of service providers annually, newspapers.

LEG. CRECCA:
I just think before the next meeting we should -- this committee should either meet again or at least all of us have an opportunity to address the Omnibus and make any changes to it before --

CHAIRMAN BISHOP:
Yes. Well, that's why it goes through committee again.

LEG. CRECCA:

Oh, okay, it will go through committee again.

CHAIRMAN BISHOP:

That's what I'm saying. Right, this is not it. We are forming the Omnibus. This is like Congress today; I didn't get there so I'm going to bring it here.

MR. SABATINO:

It's 1375. I had put biennially in, so we'll just change that.

CHAIRMAN BISHOP:

So it's going to be annually and we're going to wait for this criteria to come over and we'll have at it again at committee.

LEG. CRECCA:

Excellent.

CHAIRMAN BISHOP:

Next one.

MR. SABATINO:

Okay, the next one is -- okay, the next one is the subject matter of a Local Law that the County Executive submitted which is IR 1288. It won't be in this group of late starters, it was previously filed, but that's the -- that states that the --

CHAIRMAN BISHOP:

Oh, here's appraiser qualifications.

MR. SABATINO:

No, this is 1288 which states that -- it's not in this package of bills you have in front of you, it was laid on as a Local Law by the County Executive. This is the one that talks about having the recommendation of the list of real estate appraisers not come from the County Treasurer but to come from the Real Estate Division.

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CHAIRMAN BISHOP:

Okay, that's -- does anybody want to make a case for the Treasurer? That's the man who forgot to give us the million dollars from the bail fund for all these years. No? Okay. Everybody agree with this one?

LEG. COOPER:

Yes.

CHAIRMAN BISHOP:

Sold. Codified (Vote: 5-0-0-0). Next?

MR. SABATINO:

The next one is IR 1379 which is in recommendation number three which stated that the Real Estate Division should include backup information with the list of appraisers submitted to the Legislature including

copies of appraiser licenses and CV's.

CHAIRMAN BISHOP:

Do we have in this backup information what the last prior sale is, is that another recommendation?

COMMISSIONER ISLES:

I don't understand the question.

CHAIRMAN BISHOP:

Okay. Let's say the County was purchasing my house from me. Under 1379 you would list who did the appraisal and the appraisal amount would come in at a million dollars, of course, because I live in a mansion. Would you pick up also in any of these other recommendations what I purchase the house for; is that a separate recommendation? I think a lot of Legislators --

COMMISSIONER ISLES:

The prior -- oh, okay, the prior purchase?

CHAIRMAN BISHOP:

Prior purchase price.

COMMISSIONER ISLES:

Not necessarily. It's sometimes referred to in the appraiser report as --

CHAIRMAN BISHOP:

But I think that's something we want; is that unworkable?

MS. COSTIGAN:

Are we talking about the same thing? I don't think we're on the same recommendation.

MR. SABATINO:

It's not 1379.

CHAIRMAN BISHOP:

It's not 1379.

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MR. SABATINO:

Let me try to catch up.

LEG. CRECCA:

Why don't we just go by the recommendations.

CHAIRMAN BISHOP:

We tried that and we were told that was illogical, so we're sticking with this one.

LEG. CRECCA:

No, we're actually following the recommendation.

CHAIRMAN BISHOP:

Which recommendation -- state the recommendation and we'll all seek out the bill.

MR. SABATINO:

The Real Estate Division should include black up information with the list of appraisers submitted to the Legislature including copies of annual -- I'm sorry, appraisal licenses.

COMMISSIONER ISLES:

Yeah, this was meant for when they're submitting to be on the appraisal list for the Legislature, that there's backup describing who they are, what their experience is, what their licenses are.

MR. SABATINO:

It's 1370.

CHAIRMAN BISHOP:

All right.

MS. COSTIGAN:

It's just saying you shouldn't just get their name, you should get their qualifications.

COMMISSIONER ISLES:

Right, exactly.

LEG. CRECCA:

Motion to approve.

CHAIRMAN BISHOP:

Yes, okay. This one is important and it's easy and it should have been done.

LEG. CARACCIOLO:

I have a question, though, about the current system.

CHAIRMAN BISHOP:

Sure.

LEG. CARACCIOLO:

Because we have used and we are using --

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CHAIRMAN BISHOP:

I haven't gotten an answer to my question though.

LEG. CARACCIOLO:

-- individuals that don't have this, these credentials and professional certificate certifications. What is the plan on how these individuals will be use utilized until such time as the County is in a position with certified appraisers on board?

COMMISSIONER ISLES:

Okay. Last time that the Legislature approved the list was in 1997. As part of the review by the committee this past winter, we took the current list, we checked the records on every appraiser on that list. What we found is that all but one appraiser was a New York State Certified General Appraiser, so all but one met that requirement. One of the appraisers was just a residential appraiser and could not do any commercial properties. So the answer to the question is at the present time, at least from a New York State Licensing standpoint, all of the appraisers have a license. However, the committee felt that there should be more descriptive information given to the Legislature including some of their work experience and so forth.

In answer to your question, sir, everyone we're hiring right now is licensed, number one. And number two, we have suggested that dual appraisals be done above \$300,000 as a further check to make sure that we're getting accurate numbers.

CHAIRMAN BISHOP:

We're getting to those, let's not go down the --

LEG. CARACCIOLO:

That's number nine, I see it on the list. Go ahead.

CHAIRMAN BISHOP:

This one was adopted 5-0, correct? Codified (Vote: 5-0-0-0).

Next one, Paul.

MR. SABATINO:

1362 which was Item No. 4 in the report, the selection of appraisers from the approved list should be done in a manner that includes criteria and utilizes a best efforts to rotate the appraiser selected.

CHAIRMAN BISHOP:

All right, should be done, best effort to rotate..

LEG. FIELDS:

Who decides who the best is?

COMMISSIONER ISLES:

Well, I think this is part of what we talked about. We're developing some suggested criteria that we'll have back to you in draft form at the next meeting.

CHAIRMAN BISHOP:

Okay.

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COMMISSIONER ISLES:

We're working on that internally as part of the administration at this point.

CHAIRMAN BISHOP:

All right, we'll wait on this one. Next?

MR. SABATINO:

1363 is next which stated with each bid submitted by an appraiser, a disclosure statement should be provided. 1363.

CHAIRMAN BISHOP:

We're disclosing what?

LEG. CRECCA:

Yeah, I was just going to say, we need the criteria of what should be disclosed on that. I think it's a very good idea.

CHAIRMAN BISHOP:

Is this potential conflicts of the appraiser?

COMMISSIONER ISLES:

Yes.

CHAIRMAN BISHOP:

Okay.

COMMISSIONER ISLES:

So we've asked for some input from the County Attorney and we're meeting with him next week to go over that, on the disclosure as well as on the written criteria for the selection of appraisers.

LEG. CRECCA:

In other words, there should be some criteria of what should be disclosed, David, on that form.

CHAIRMAN BISHOP:

Okay. I'm just trying to think what --

LEG. CARACCILOLO:

Well, it makes reference to the code. Counsel?

MR. SABATINO:

Yes, that's -- the recommendation made reference to Section 5-7 of the Administrative Code which is a section that's -- it's a vendor disclosure law which basically requires details with regard to who the vendor is, what other contracts or business dealings they have with the County, who the principals are, if it's a corporation or if it's a partnership or a joint venture or whatever. This is elevating that requirement by making it part of the filings.

CHAIRMAN BISHOP:

Well, I would urge that we adopt it. If their County Attorney meeting is greater than -- has greater criteria they can present that and if it has lesser they can present that as well, but we'll know --

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LEG. CARACCILOLO:

Second.

CHAIRMAN BISHOP:

-- at a first glance that this is the approach that we'd like to

take, it's already been used in the Administrative Code successfully and other applications. All right? One, two, three, four, five? Okay. Codified (Vote: 5-0-0-0).

MR. SABATINO:

Okay, the next one would be IR 1374 which in the report stated in Item No. 6 that on an annual basis, the appraisers authorized by the Legislature should be required to submit proof of certification to the head of the department with jurisdiction for the Real Estate Division.

CHAIRMAN BISHOP:

Okay.

LEG. CRECCA:

Sounds good.

CHAIRMAN BISHOP:

That's fine.

LEG. CARACCILO:

Second

CHAIRMAN BISHOP:

Adopted, five zero (Vote: 5-0-0-0).

MR. SABATINO:

Okay, the next one is 1388 which stated that all appraisers authorized by the County for acquisitions should be qualified as a New York State Certified General Real Estate Appraiser. And then it goes on to --

CHAIRMAN BISHOP:

This is not your criteria that you're going to the County Attorney with?

COMMISSIONER ISLES:

No. We're saying it has to be a New York State Certified General Real Estate Appraiser for starters, but as I said, of the 30 people we have on the list presently, 29 are Certified General Appraisers. We think we need to go a little bit further.

CHAIRMAN BISHOP:

You're seeking to go beyond this.

COMMISSIONER ISLES:

Exactly.

CHAIRMAN BISHOP:

So this would be another one that's at minimum.

COMMISSIONER ISLES:

Exactly.

CHAIRMAN BISHOP:

All right.

LEG. CARACCIOLO:

I have a question.

CHAIRMAN BISHOP:

I guess we should adopt it as the minimum and we'll see what they come back with to supplement it.

COMMISSIONER ISLES:

We have implemented it administratively, just so you know, as with many of these recommendations today.

LEG. CARACCIOLO:

Tom?

COMMISSIONER ISLES:

Yes.

LEG. CARACCIOLO:

How many appraisers do we have in-house, two? Review appraisers.

COMMISSIONER ISLES:

We have one -- well, two are review appraisers, yes.

LEG. CARACCIOLO:

I know you have one other individual on your staff who doesn't work in that area but also is a State Certified Appraiser.

COMMISSIONER ISLES:

Right. The gentleman on my staff is a New York State General Certified Appraiser. We do have on the Real Estate staff a Residential Certified Appraiser.

MS. COSTIGAN:

She is general.

COMMISSIONER ISLES:

Okay, I just got corrected; she's general, too. It's news to me.

LEG. CARACCIOLO:

Okay, so we have two.

COMMISSIONER ISLES:

Yes.

LEG. CARACCIOLO:

And that would be the highest level or the lowest level?

COMMISSIONER ISLES:

That's the highest level under New York State licensing.

LEG. CARACCIOLO:

Okay. How many should we have? Given the number of land acquisitions the County makes, how many should we have?

COMMISSIONER ISLES:
We should have one more.

LEG. CARACCIOLO:
There is a sense that we only need one more.

COMMISSIONER ISLES:
At this point in time, yes.

LEG. CARACCIOLO:
Okay. Was there a sense we should have had one more before this time?

COMMISSIONER ISLES:
Well, as part of the panel review and looking at this and discussing this, we felt we should have -- that there should be a position created specifically for appraisal -- a certified appraiser. We have requested that and I believe the County Executive has put that in for creation of that spot.

LEG. CARACCIOLO:
Okay. Mr. Taibbi or Ms. Or Mrs. Allar, are they certified appraisers?

COMMISSIONER ISLES:
No, they're not.

LEG. CARACCIOLO:
And that's one of the real weaknesses in our system, is that we have people who don't have the same professional credentials, certifications, passing judgment on people who do.

COMMISSIONER ISLES:
Well, they certainly have qualifications in their fields, and I'm not saying they don't. They are Civil Service certified, they are not New York State Certified and I believe they have reasons for that and can explain why they are not certified. But whether they are or aren't, we feel we need to have certain licensed credentialed professional on our staff. If they were to get those credentials, certainly I think they can be entertained for the positions. But so not to diminish their roles, they do have a lot to bring to the division, but we need more than that. We need to have at least one more high level position in the department of a New York State General Certified Appraiser on our staff assisting in appraisal review, that's what we need.

LEG. CARACCIOLO:
So they will continue in the department, they won't be in the positions that they have been in where they have reviewed appraisals.

COMMISSIONER ISLES:
That is to be determined. Management is reviewing the department and we will be -- in terms of internal organization, that is something that we are reviewing. And at this point, you know, we can't give you any details because we haven't gotten there yet, but will they be reassigned, will they stay where they are? At this point in time, I honestly can't answer.

LEG. CARACCIOLO:

All right. Mr. Chairman, I just want to note for the record that it's clear to me, and I have spent some time and I'm going to continue to spend a lot more time looking at review appraisals and senior review appraisals. And what one finds when you take the time to do that is that despite the recommendations of these individuals, they have done a pretty good job, their superiors time and time again have directed that the County pay prices in excess of the review appraisers and the senior review appraisers, and that to me is very troubling. That's something that's really the subject of another review because I'd like to know why that's taking place and why that -- I don't know if it will continue, hopefully it won't, but there's clearly a pattern to me of somebody telling somebody raise those appraisals, we're in negotiations. And I'm not going to speculate beyond that, but I think we're all going to come to find as the weeks and months go by that Chandler and Campo were not aberrations.

CHAIRMAN BISHOP:

So their solution is to give them a new boss. You're trumpeting the appraisal review civil servants as the --

LEG. CARACCIOLO:

To an extent I am.

CHAIRMAN BISHOP:

Right. And then --

LEG. CARACCIOLO:

And I'm saying we --

CHAIRMAN BISHOP:

And then they're saying, "All right" --

LEG. CARACCIOLO:

We think as we sit here that by addressing that part of the process that it's going to solve our problems, and I'm saying I don't think so, I don't think so. I think it gets back to what takes place and from where and when direction comes from and from whom and instruction to pay for purchase prices that exceed County appraisals, County review appraisals and recommendations of senior review appraisers. I mean, we're only touching the surface going through this today.

CHAIRMAN BISHOP:

I would just be careful of --

LEG. CRECCA:

Right.

CHAIRMAN BISHOP:

-- generalizations that mix the two notions; one which is a search for an accurate appraisal and the other is an appraisal process that's compromised by a conflict of interest. And the latter is I think the story, the former is what you're implying the story is and I don't know if I want to -- I have not seen enough evidence to join you there.

LEG. CARACCIOLO:

Well, I would encourage you then to look at a number of appraisals beginning with Shadmore, Oak Beach inn, Chandler, Campo, and I'll stop there at the present time.

CHAIRMAN BISHOP:

Well, there's no doubt that there were disagreements between appraisal review and the Director of Real Estate. When the Director of Real Estate is compromised because of a conflict of interest, then I have to, you know, reform the system because you can't have that and you lose confidence in the whole process. But every time there is a disagreement between appraisal review civil servant and a certified appraisal, I'm not going to side with the Civil Servant who's not even licensed which is, you know, also one of the things that I would say the Pine Barrens Commission folks and The Nature Conservancy have warned us about which is throwing out the baby with the bath water. So that's --

LEG. CARACCIOLO:

Well, you and I obviously have different opinions on that.

CHAIRMAN BISHOP:

We are leaving our mission now and we're having a dialogue that we shouldn't have. Let's move back to -- where are we?

MS. LOMORIELLO:

1388.

CHAIRMAN BISHOP:

1388, which should be at a minimum so I believe it should be adopted, and we're waiting for more supplemental information from the department, from the division.

LEG. CRECCA:

More stuff.

CHAIRMAN BISHOP:

Next?

MR. SABATINO:

The next one is 1369 which was Item No. 8 which stated all appraisal reports should conform to the uniform standards of professional appraisal practice of the appraisal foundation or similar professional standard.

CHAIRMAN BISHOP:

Well --

LEG. CRECCA:

Motion.

CHAIRMAN BISHOP:

Of course, that's another maximum. I mean, what formed the basis for needing this resolution?

COMMISSIONER ISLES:

It's just -- it speaks for itself. The basis of the recommendation was that of course this should be the case, the panel chose to include it just to make sure that it was clear and that -- this requires, by the way, that there's a certification in the appraisal report attesting to completion in accordance with the professional and ethical standards of the appraiser. So of course it should be in every report, the point being is that the County should not accept any appraisal that does not have this type of certification to it.

Here again, there was no issue with this that I was aware of or that the panel was aware of in the past, but rather than being lax and not considering something that's important, it was noted even though it was obvious. And it has been put into practice, as I indicated already.

CHAIRMAN BISHOP:

You mean you sent out an order saying that we have to --

COMMISSIONER ISLES:

Well, I've sent out a memorandum, as I said, the beginning of March with instructions on practice within the department, this is included with that.

MR. SABATINO:

Maybe just to highlight. In the narrative portion beyond the recommendation there was a second sentence which said that the appraiser must certify that the appraisal was not based on some directive to establish, you know, the specific values. So I think maybe the narrative portion is more significant than the --

MS. COSTIGAN:

Uh-huh.

CHAIRMAN BISHOP:

All right. Is that the rule that you established administratively?

COMMISSIONER ISLES:

Yes, and it's actually contained in the professional requirements. If you're meeting the requirements that the appraisal foundation --

CHAIRMAN BISHOP:

So the appraiser has to sign a document saying, "I was not told" --

COMMISSIONER ISLES:

You're required to have that statement in there.

CHAIRMAN BISHOP:

-- "to set this value."

COMMISSIONER ISLES:

Right. So we just wanted to underscore that.

CHAIRMAN BISHOP:

Is that the -- is that what the committee -- well, if you adopt that

specific recommendation you're adopting less than the general -- this I assume brings with it a whole host of professional --

COMMISSIONER ISLES:
Criteria.

CHAIRMAN BISHOP:
-- criteria and mandates.

COMMISSIONER ISLES:
Standards, yeah.

CHAIRMAN BISHOP:
Standards. Any thoughts? Adopted. Okay, five zero, it's adopted.
Adopted (Vote: 5-0-0-0).

MR. SABATINO:
The next item is IR 1372 which was recommendation number nine which stated that there should be at least one New York State Certified General Appraiser on the staff of the Real Estate Division.

CHAIRMAN BISHOP:
You don't have that? You have two we just heard.

COMMISSIONER ISLES:
Well, yeah, we do have one general appraiser, I was under the belief that she was a residential appraiser. Here again, we're saying there should be at least one, the County Executive has submitted for a hiring of another person at a high level position of the department so that we have adequate capabilities in-house to conduct the review of appraisals.

CHAIRMAN BISHOP:
I don't know if we need to codify that.

LEG. CARACCILO:
Tom, did you say we have one or two presently?

COMMISSIONER ISLES:
Okay. We have one in the Real Estate Division and we have one in the Planning Division. The one in the Planning Division is a resource to be used by real estate, but that's not his main job, his job is a Senior Planner. So in answer to the question in terms of who do we have available to do appraisal review, we have one person available at the present time with a license.

LEG. CARACCILO:
Okay. And just to back up a minute, the two individuals that have done this work in the past, they will continue to be used in what fashion?

COMMISSIONER ISLES:
That's a management issue right now and I would rather not answer that

at this time. They will be -- the new Director started last Monday, a week ago, she and I, as well as Mr. Burke, have been discussing that, and I would beg your indulgence in terms of the transition we're in

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right now. I was a little concerned about making too many changes immediately in terms of management issues until Christine came on board. They are presently doing appraisal review, they may very well continue to do that. There are a number of issues in this division that we need to get sorted out that go beyond acquisition and sale of property. We have given it the highest priority in the division and I can report that back to you.

LEG. CARACCILOLO:

I can certainly respect that, just give me an idea of how long it will be before you can get back to us on it; a few weeks?

COMMISSIONER ISLES:

Yeah, one aspect of that is that the County Executive has put a bill in to reappropriate positions in order to have a position created for a certified appraiser. So if that gets approved then that sends us in one path, if that doesn't get approved it may effect what we do from a management standpoint. So it's going to be time dependent upon some of these outside actions. That was laid on the table last Tuesday that bill.

LEG. CARACCILOLO:

I would think the Legislature would be very supportive of the addition of another certified appraiser. With that said, assuming we went in that direction, then your decision is to reassign them elsewhere within the division but not necessarily continue to do review appraisals.

MS. COSTIGAN:

Neither one of them is currently full-time doing review appraisals. So if we know that there is an approval for a full-time certified appraisal who's going to work strictly in that area, then we can make an estimate of how long it will take to get that person and it's going to take a while.

LEG. CARACCILOLO:

Okay. So for the short term at least they will continue to perform some type of appraisal function.

MS. COSTIGAN:

Yes.

LEG. CARACCILOLO:

Okay, good.

CHAIRMAN BISHOP:

All right. But this is a resolution that says we would be adopting an Omnibus that the real estate division must have a certified --

LEG. CRECCA:

Just add a staff position.

CHAIRMAN BISHOP:

Why don't we just add a staff position. I don't think that this is a path we want to go down because now every department is going to come in with their --

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LEG. FIELDS:

So we do not approve this one?

CHAIRMAN BISHOP:

Right, not approve it.

LEG. CRECCA:

I make a motion to ask Counsel --

COMMISSIONER ISLES:

The County Executive laid one on the table on Tuesday, yeah.

CHAIRMAN BISHOP:

Right, okay. Zero-five, out. Rejected (Vote: 5-0-0-0). Next?

MR. SABATINO:

The next one is 1368 which dealt with recommendation number ten which stated the authority provided in a planning steps resolution should include the ability of the Real Estate Division to start preliminary negotiations.

LEG. CRECCA:

Explanation.

CHAIRMAN BISHOP:

I agree.

COMMISSIONER ISLES:

The explanation, if you'd like that, very briefly --

CHAIRMAN BISHOP:

I think you gave the explanation in the beginning, I'm trying to expedite it.

COMMISSIONER ISLES:

I'm sorry.

CHAIRMAN BISHOP:

Does everybody understand it? So when we do preliminary steps, or we call them planning steps, we would also be providing the Real Estate Division an authorization to enter into I guess non binding negotiation where they would come back to the Legislature.

LEG. CARACCIOLO:

Subject to.

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

Yes.

CHAIRMAN BISHOP:

So I think we should change the names of our planning steps resolutions to be planning and preliminary negotiations.

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COMMISSIONER ISLES:

Yeah.

CHAIRMAN BISHOP:

So everybody will understand it better who is not on this committee.

COMMISSIONER ISLES:

Then we can come back to you with more information when it comes to authorization.

CHAIRMAN BISHOP:

This is a good common sense. It would also allow Legislators to have a better picture of the purchases that they're being asked to vote on for final approval.

MR. SABATINO:

It includes the clause you looked for, it says subject to final County Legislative approval, just so you know.

CHAIRMAN BISHOP:

Also, so our planning steps resolutions now will say planning and preliminary --

MR. SABATINO:

Well, no. What I'm going to do with those is I'm going to put them -- I'm going to the RESOLVED clauses to all the planning steps resolutions.

CHAIRMAN BISHOP:

Okay.

MR. SABATINO:

I mean, they'll be there with a specific RESOLVED clause.

CHAIRMAN BISHOP:

It's your Legislature, I'm just elected to serve here. Next one?

LEG. COOPER:

Dave? It's just that if we make this change then it's incumbent upon us to give a lot more consideration to the planning steps resolutions before we approve them, right now we approve it giving it much thought.

CHAIRMAN BISHOP:

Well, it would put more thought into the final approval because we'll

know what the seller is looking for, we'll know what the appraiser is, we'll know all the conflicts that the appraiser has.

LEG. COOPER:

Before we even authorize planning steps, the cost would be higher to the County obviously if we're going to go an extra step and begin even preliminary negotiations. So we have to make sure that the planning steps that we do approve are for acquisitions that are worth while. I can think of a few examples recently where some Legislators voted for planning steps saying how they're just planning steps, don't worry about it.

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CHAIRMAN BISHOP:

Right.

LEG. COOPER:

Now the cost to the County will be greater so we have to take this process a lot more seriously.

CHAIRMAN BISHOP:

A phone call at least. I mean, we're --

COMMISSIONER ISLES:

It would be additional staff time, no question about it. And in terms of whether or not other planning steps resolutions should not be approved, we'll leave that to the Legislature. I think the benefit outweighs the cost in the sense that I like the idea of being able to get back to the Legislature and the County Executive with a better handle on the acquisition.

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

I think it would be very helpful to us, actually.

LEG. CARACCILO:

Tom, should there be a time line or an outside date as to when the appraisal and preliminary negotiations should take place? Because as we all know, sometimes negotiations can take years and what happens is Jim and others in the division, and now Mrs. Costigan, will have a lists of acquisitions, potential acquisitions, money set aside from various funding sources for something that may or may never happen. And then in the meantime, other initiatives are detained because you're not sure if you can consummate some of the deals that have been pending for sometime. So I think, you know, at some point, like any real estate transaction, buyers and sellers have to makeup their minds as to whether or not they're going to go ahead and make something happen.

COMMISSIONER ISLES:

There is presently the two year rule, so after that we'd have to come back to the Legislature to bring you up-to-date or get reauthorization on an acquisition. But beside the two year rule, it is a problem and

it's -- I don't know if it's easy to come up with an actual number saying the negotiations must be completed by X time. It is something we try to manage as best we can to keep applications or acquisitions alive and not have them straggling on too long, but we do run into situations where the negotiations can take a little time, there may be problems, there may be family situations with farmers and so forth we've dealt with where they need a little extra time. So I think your point is well taken. It would make our job easier to have less to carry at any one particular time. In terms of actually implementing it, it's something we do strive to do and I think as part of this whole process of cleaning things up and so forth, I think we're trying to move things out in that manner.

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LEG. CARACCIOLO:

Your reference to the two year limit, what is the source of that?

COMMISSIONER ISLES:

I believe that ties into the same Levy bill that has --

LEG. CARACCIOLO:

Counsel?

COMMISSIONER ISLES:

-- you have to sell within -- sell and buy within two years, Local Law 23 or whatever it is.

MR. SABATINO:

It's two years.

LEG. CARACCIOLO:

Negotiate, close and -- I mean buy and close?

MR. SABATINO:

No, no.

LEG. CARACCIOLO:

No, I think we're talking about two different things, that's why I brought this up.

MR. SABATINO:

No, the two years is that once you have an authorized -- once you have a resolution saying the acquisition is authorized, it's two years to close on a purchase. But there's no deadline between the initial planning steps and the date that you actually get to authorization.

LEG. CARACCIOLO:

Which I think, again, could be a cause of concern. Because in a market such as we've experienced in the last couple of years, if a seller knows the longer they hold on to the property they could demand more money or a higher purchase price, then in essence the County is not held hostage but at least it gives the appearance that we may be held hostage. Because if there have been pronouncements that you want to purchase this property and the seller strings you along for an extended period of time, in the course of that time the purchase price

is only going to go higher and higher and higher.

COMMISSIONER ISLES:

Usually.

LEG. CARACCIOLO:

And I don't think that serves the public's best interest in every case, maybe in some cases it does and other cases it may not. These are business decisions that sellers and buyers have to make and I don't think because we're in government we shouldn't think like business people and sometimes just say well, there is an end date and there is an end gain and we're either going to do this or we're not going to do this and we're not going to let these negotiations pend for years and years at a time.

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COMMISSIONER ISLES:

I agree. And the one point on that is that the longer we have negotiations continuing, the more our appraisals tend to get stale and outdated, we then run into an issue of a repeat appraisal and there are problems with that. And so as best we can we do try to be timely on this and I think we're approaching that angle in the future.

I think another aspect in terms of the negotiations, if we're take -- present a posture that we want to fish or cut bait, I think that helps us because it's a standpoint that we're serious and either they get on board and do the acquisition with us, the sale. I think it helps our competitive end a little bit to be a little bit more disciplined on that. So here again, there are situations where there are -- things do get a little protracted, we strive to move that as quickly as can and we think it's a good suggestion.

LEG. CARACCIOLO:

Yeah. And again, as an example I point out Shadmore. Shadmore came to the Legislature a full year before it closed as a Certificate of Necessity. Now, I'll never understand why that happened, okay. The town had approved a town board resolution, the County could have approved a resolution, it didn't have to be by CN, apparently it took other parties time to put the pieces or the funding in place to close on that deal. And the worst thing about Shad -- not the worst thing, but one of those things about Shadmore that's cause for concern is that in our resolution we identified a dollar amount that the County was willing to pay up to, and guess what, guess what we paid?

CHAIRMAN BISHOP:

Up to; did I guess right?

LEG. CARACCIOLO:

It's not your money. If it was your money you wouldn't be so flippant about it.

CHAIRMAN BISHOP:

Next?

MR. SABATINO:

The next one is IR 1387 which was recommendation eleven which stated that the level of oversight of acquisitions should be commensurate with value and/or complexity of the parcel to be acquired. This one is complicated and --

CHAIRMAN BISHOP:

This is the complicated and meaty recommendation. All right, do you want to -- I think we can work through it together. Zero to 25,000, one appraiser, generic -- one appraisal, generic or specific, division director approval. So in other words, the Legislature would authorize this purchase, you would go out after we authorize, get one appraisal and then administratively say go forward; right?

COMMISSIONER ISLES:

Yes.

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CHAIRMAN BISHOP:

Okay, so that's level one.

COMMISSIONER ISLES:

Right. That's obviously the simple level, low value.

LEG. CRECCA:

Yes.

CHAIRMAN BISHOP:

Right. No, I understand.

COMMISSIONER ISLES:

Okay.

CHAIRMAN BISHOP:

Level two, the Legis -- before I get to one, two, three, four, I always say the Legislature authorizes, correct?

COMMISSIONER ISLES:

Correct.

CHAIRMAN BISHOP:

Then there would be an appraisal, your appraisal review people would look at it, they would sign-off on it, then division director's recommendation, that's you, and then you again?

COMMISSIONER ISLES:

Well, it's --

CHAIRMAN BISHOP:

Why you twice?

COMMISSIONER ISLES:

Ms. Costigan as the division director --

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

-- would then issue a recommendation after reviewing the material and then it would come to me for department head approval.

CHAIRMAN BISHOP:

Oh, I see.

COMMISSIONER ISLES:

And here again, this could be done utilizing the two step planning steps and authorization. So at any point if the Legislature wants to get let's say after the division director issues the recommendation to acquire, it could come before the committee for the acquisition resolution. Since we have been authorized under planning steps to start negotiations, we could then convey that to you. So the Legislature could elect to have the information you need, if you choose just authorize us, if it's an Omnibus or whatever. The chain then would be ultimate approval by the department head.

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CHAIRMAN BISHOP:

So all -- I mean, let's -- let's just clarify. Because it seems like now we're going through a process in the Legislature where most things have planning steps first. So we would say all right, planning steps on this parcel, it comes in at a quarter of a million dollars, then you would go through one, two, three, four and then come back to us for a final approval?

COMMISSIONER ISLES:

Yes.

CHAIRMAN BISHOP:

So it's planning steps, so it's two votes.

COMMISSIONER ISLES:

Yes. But I will make the point, Mr. Bishop, that as far as the panel was concerned, we recognize that the Legislature from time to time approves authorizing resolutions without planning steps --

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

-- and that's your prerogative, and that also there are sometimes omnibus resolutions for like the Pine Barrens and so forth. What the panel said is that regardless of how that might go, at least above level four, not to get ahead of the game here, but the only one where there would be let's say mandatory requirement on the administration's part, the department's part to come back to the Legislature would be level four. Here again, there are other levels that the Legislature as part of your review, you want to hear the information, you can get it obviously.

CHAIRMAN BISHOP:

What's the point of three and four?

COMMISSIONER ISLES:

Okay, the point of level number three --

CHAIRMAN BISHOP:

No.

COMMISSIONER ISLES:

Oh, I'm sorry.

CHAIRMAN BISHOP:

On that three and step four.

COMMISSIONER ISLES:

I got it, I got it. Okay, sorry. That's the internal mechanism for the decision making. Up to this point, the Legislature hasn't mandated a roll. You have authorized the acquisitions and it would either be the division director or the department head to make the decision on an acquisition. What we have suggested is that for acquisitions up to \$300,000 the department head must have mandatory approval, or disapproval as the case may be.

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CHAIRMAN BISHOP:

But we make decisions, you implement.

COMMISSIONER ISLES:

Well, here again --

CHAIRMAN BISHOP:

Aren't I ceding my Legislative authority if I --

COMMISSIONER ISLES:

If you were to pass a resolution which has been done in the past to authorize acquisition without any planning steps then we're authorized to go off and do it and, quite frankly, that's what we've been doing for the past number of years. We then complete the negotiations, we review the appraisals, we review the appraisal reviews and so forth and then we purchase the property because you have authorized us to do so. All we're saying here is that the division director would not have sole authority to approve, even if you, the Legislature, authorize the acquisition they would have to go to the department head just as another layer of responsibility. The Legislature does not lose any control that you may want to exercise, it could still go planning steps it can still go full authorization. With the change to planning steps, when we come back to you for authorization, whatever information you want at that point in terms of the status negotiations, appraisal and appraisal review can be before you. Here again, what we're suggesting here are the minimum levels.

CHAIRMAN BISHOP:

I think what I'm confusing in my head is we pass a resolution that says buy the Caracciolo estate and you go out --

LEG. CARACCILO:

Estate?

CHAIRMAN BISHOP:

Yeah, because I'm sure you have an estate in Aquebogue or wherever you are. We go out and we go through the process, the appraisal and such, if you don't sign the document that process shuts down? If you or Ms. Costigan doesn't sign a document, then the Legislature loses, so to speak?

COMMISSIONER ISLES:

I see your point. Here again, the way this is written, if the department head didn't approve it then no the purchase would not go forward.

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

But as I mentioned, we're not discounting a roll of the Legislature if you choose to exercise that. And the balance here was that how much is done administratively, how much is done legislatively, and there was a concern for slowing down the acquisition process by getting too bureaucratic or too involved with this. So we feel that --

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CHAIRMAN BISHOP:

What I think this is presupposing is oversubscription. This is like a real life -- you know, in our real life we over subscribe the program and so it does require an administrative determination of which ones are priority, unless we have specifically passed a priority list as we did with the greenways open space. But let's take just open space in general, that program, we haven't done that so the ball is in your court, you get to pick and choose.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

I think that's what this is reflecting, an over subscription.

COMMISSIONER ISLES:

Right. Whether it's an over subscription or not, the -- just keep in mind with all these recommendations regarding these thresholds, the intent here is through the change in the planning steps and through number four is to provide more information to the Legislature and then less. And so the prior practice has been once you authorize it we're off and running, we do our negotiations, we acquire the property. To provide more control and oversight without totally bogging down the works, we have suggested this format.

If let's say, for example, the department head were to say, "Well, I don't think we should be buying this because I don't like the appraisal," or whatever else it may be, it does not remove --

CHAIRMAN BISHOP:

Or you discovered it's toxic, that would be a good example.

COMMISSIONER ISLES:

That does happen.

CHAIRMAN BISHOP:

Okay. Then what?

COMMISSIONER ISLES:

Well, number one is the Legislature still retains authority in the sense that we come back to you and we issue you our recommendation in terms of -- after planning steps are issued, we've started negotiations, we come back to you for authorization, you ask us what you do you think of this, you ask what the appraisal is, what the review is and so forth, you still have an involvement and a role. There's no question what we're dealing with here today is a balance between the two branches, and the Executive Branch has the responsibility for implementing County policy. The way I think of it is that the Legislature and the Executive Branch set direction, the administrative agent such as myself are motion, we make it happen. So what we're trying to do is to knit a program that provides a balance between the involvement of the Legislature and setting that direction of policy on land acquisitions and our ability to administer it in a timely and efficient manner so we can achieve those objectives.

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CHAIRMAN BISHOP:

Do you have thoughts? I don't want to monopolize the time here.

LEG. CARACCILOLO:

I agree with you.

CHAIRMAN BISHOP:

Hold on, side-bar. Do you want to take a break? We have been going for over two hours.

COMMISSIONER ISLES:

I'd like to get a drink of water, that would be great.

CHAIRMAN BISHOP:

Okay, let's take a five minute break.

(*The meeting was recessed at 3:40 P.M.*)

(*The meeting was reconvened at 3:49 P.M.*)

CHAIRMAN BISHOP:

All Legislators on the Environment Committee, please report back to the committee hearing room. Tom, resume the position.

COMMISSIONER ISLES:

I'm ready.

CHAIRMAN BISHOP:

In looking over this scheme --

LEG. FIELDS:
Scheme?

CHAIRMAN BISHOP:

Scheme, in the British sense of scheme. Scheme is not necessarily a bad thing, it's a method. In looking this over and discussing it with my colleagues, I think -- I wish they were in the room because if I represent this as their consensus and then they object we're going to have a whole hullabaloo. But I think what we believe is that if we take the criteria and we move it up, bump it up to 75,000 and say that anything less than 75,000 will have one vote and then, you know, you'll have your appraisal process and then it's discretionary, and then anything above 75,000 we would like to have a two vote process, but take away the department, the administration's ability to administratively veto it. So here's how that would work.

The first step would be approval of a planning steps resolution which includes your ability to begin negotiation, then we would go through the process of appraisal and administrative appraisal review and then you would come back to the Legislature for a second vote. And at that time if you felt the parcel was unworthy, you would say, "I'm bringing it back to you but I'm recommending that you not move forward with it because it has significant environmental problems," and so on. Does that capture what you're trying to accomplish without running afoul of what we're concerned of which is that you could administratively veto our authorizations?

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COMMISSIONER ISLES:

Yeah. Certainly it's not the intent to administratively veto the Legislature's authorization and the County Executive's authorization when resolutions are signed. And perhaps in looking at, for example, department head approval on level of acquisition two, the word approval maybe should be reviewed because the intent of that is not the approval of the acquisition necessarily in terms of it is a good parcel to buy or not buy, it's really in terms of the nuts and bolts of has the transaction been done in accordance with the rules and regulations and procedures, that was intent of it.

In terms of the administration or the department blocking or subverting the intent of the Legislature or the County Executive in terms of not buying a parcel that you've authorized, number one, the resolutions that are approved by you state that the real estate department is not suggested to go out and buy a parcel but we're directed, empowered, required; it's not optional, we have to do it. And quite frankly, when we don't do it, if we have a willing seller, the deal is ready to go and so forth and it's not going, I usually hear from somebody when it's not going, a Legislator or the County Executive or whatever. So it's not something I've seen a problem with. I understand what your concern is, that obviously you have the ultimate control on this, but just as a clarification that that's pretty much the way it has worked and the word approval is really meant on the mechanics of the appraisal and so forth.

CHAIRMAN BISHOP:

Okay. Now, the only problem I see in what I'm saying is how do we know what the value is when we start the process, that we need two votes or one vote?

LEG. CRECCA:

Hhmm.

CHAIRMAN BISHOP:

Anybody have an answer? I suppose I should since it was my idea.

COMMISSIONER ISLES:

It seem that more and more things are being done as two steps, with planning steps. And even if it is a low value acquisition and even if we just do it in a proforma way, it still gives you the option of final authorization to know what you need to know.

CHAIRMAN BISHOP:

Right. So I guess if we're doing a one step, there needs to be a declaration in the resolution that this is a low value acquisition, you know, less than 50,000 or less than 75, whatever the level that we assigned.

LEG. FIELDS:

That's level one, not low level.

CHAIRMAN BISHOP:

Level one, I'm sorry; I don't want to offend the property.

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LEG. CRECCA:

The only problem with that is that, first of all, you don't want to disclose in the planning steps bill what the value of a property is, I think that can hurt you in negotiations. Number two is --

CHAIRMAN BISHOP:

Not if you're declaring it of a low value, it's going to help us if anything.

LEG. CRECCA:

Yeah, but what if it's not low?

CHAIRMAN BISHOP:

Well, then they'd come back to us because then they would need the second resolution. By declaring it a low value, what you are saying is that this has a value we assume of less than X.

LEG. CRECCA:

And what happens -- if it comes back more than that, then it's got to come back to the Leg?

CHAIRMAN BISHOP:

Then it's got to come back to us.

LEG. CRECCA:

All right, yeah, that works.

COMMISSIONER ISLES:

Just to make it clear, in terms of the recommendations of the panel and the recommendations of the administration is that we feel the mandatory threshold should be at a million dollars to come back to the Legislature. That below that, here again, the Legislature has the two bites based on planning steps or a full acquisition, and that the Legislature would understand then that there would be set process. So legislator Caracciolo raised some questions in the past about did we get an appraisal review, did we get two appraisals and so forth, all that is spelled out so we're operating within the framework that you understand, the County Executive understands.

My concern with perhaps bringing this threshold down for acquisitions requiring Legislative approval for less than a million is tying up the process too much. And here again, if we have the two step planning steps and authorization --

CHAIRMAN BISHOP:

Your concern is --

LEG. FIELDS:

Timing.

CHAIRMAN BISHOP:

You switched --

COMMISSIONER ISLES:

Timing.

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CHAIRMAN BISHOP:

You're moving ahead, but what is it?

COMMISSIONER ISLES:

That --

CHAIRMAN BISHOP:

You're concerned with two votes?

COMMISSIONER ISLES:

I'm not so much concerned with two votes as much as if it's mandatory that every acquisition over 75,000, whatever it is, requires Legislative approval, then pretty much every --

CHAIRMAN BISHOP:

That's two votes, it's semantics. I mean, if we do planning steps first, you get going, go get your appraisal, go contact the owner and then come back to us for a final vote, that's essentially the direction we've been heading in not formalized but by practice over the last year, we have been doing enormous amounts of planning steps resolutions.

LEG. FIELDS:

How do you feel it would slow the process down?

COMMISSIONER ISLES:

I think that the -- if it becomes mandatory below that amount, then it

would effect Omnibus resolutions for like Pine Barrens properties and so forth or farmland resolutions potentially.

CHAIRMAN BISHOP:

So let's come up with a figure that doesn't compromise those programs.

LEG. CRECCA:

I think Tom was saying a million.

COMMISSIONER ISLES:

Yeah, that's what the panel would recommend, a million, yeah. That it's mandatory that there be Legislative approval of an acquisition over a million dollars in terms of the dollar value, not whether we should buy it or not buy it.

CHAIRMAN BISHOP:

I'm looking for the dollar figure like for the small lots in the Pine Barrens, something over a hundred thousand dollars is not a small lot in the Pine Barrens.

LEG. CRECCA:

Sure; isn't it?

CHAIRMAN BISHOP:

It's got to have a some size to it.

COMMISSIONER ISLES:

Yeah, and let's -- just to keep this in perspective, too, that in the past we have had no requirement for coming back to the Legislature; we

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the panel didn't think that was a good idea, but we would make acquisitions of many millions of dollars based on our authorization from the Legislature. We just feel, as far as the panel is concerned, that there has to be some upward cap on that, and giving the Legislature that role at that point but on the other hand, not taking every resolution and putting it through that same process terms of the time delay.

In answer to your question of how would it effect it, I think a lot of this can be solved, as you have indicated, with what we have suggested here, the two step process of planning steps and acquisition that stills keeps -- we're not reinventing the wheel, it's the same process we use most of the times now. It's giving the Legislature the input or information you may want to use and then we could then complete the transaction based on that. So the way we have outlined it here we think does do that, it spells out when multiple appraisals are required, when appraisal review is required and so forth, clearly puts the responsibility on different positions in terms of certifying the acquisition and so forth.

CHAIRMAN BISHOP:

Everyone that I've spoken to, and maybe they can counter me, has said to me in this last half hour that they're against step three and four, that's not level three acquisition but step three and four, like division director's recommendation, department head's review, C and D we can call them. In B and C -- I'm sorry, let me speak more precisely. Everyone seems to indicate, the Legislators seem to have indicated that in level two acquisitions three and four are

objectionable, in level three acquisitions step three and four is objectionable, perhaps it's because we understand that to be the potential for an administrative veto of authorization.

LEG. CRECCA:

Right. I am not talking to you, Dave, I am talking to Ginny.

COMMISSIONER ISLES:

Okay. Well, the issue then with that is --

CHAIRMAN BISHOP:

Is that correct? I just want to see if we can all speak with one voice so we can make the most progress. Are you following that, Andrew?

LEG. CRECCA:

Yeah.

CHAIRMAN BISHOP:

You sure?

LEG. CRECCA:

We're objecting to three and four.

CHAIRMAN BISHOP:

Right. We're not even up -- we're not anywhere near D yet.

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COMMISSIONER ISLES:

But, you know, just keep in mind that what's happening then -- I'm not necessarily disagreeing with it, but all the responsibility then for an acquisition above whatever amount you deem is yours. And so in a sense of going through the appraisal, going through appraisal review, going through the documents in the file, the correspondence, all those things that usually a department head would take responsibility for are then being removed from this, given to the Legislature and --

CHAIRMAN BISHOP:

That's not my understanding of what we're trying to accomplish. I think what we're trying to accomplish --

COMMISSIONER ISLES:

Then we issue no --

CHAIRMAN BISHOP:

It comes down to you have to define these times and I don't think we've done that.

MR. SABATINO:

If I could just interject.

CHAIRMAN BISHOP:

Please.

MR. SABATINO:

Because this particular section was difficult for me to follow, I wasn't quite certain what was attempting to be accomplished. And I think that maybe the misunderstanding, which I may share, is that this

was to provide an enhanced level of scrutiny on the preconsummation of the transaction phase of the process. But I think that maybe what you are really trying to do is just put an enhanced level of scrutiny with regard to once you have the appraisal and you have an agreed upon contract price?

COMMISSIONER ISLES:

No, not necessarily an agreed upon -- well, maybe agreed upon but not signed yet.

MR. SABATINO:

But when you used the word approval in those three sections, I thought you meant the approval of the acquisition.

COMMISSIONER ISLES:

Right.

MR. SABATINO:

You mean the approval of the contract, the price, the purchase?

COMMISSIONER ISLES:

Yeah, I think the deal, the contract terms and price and so forth. And you are right, I think that word approval may be a little misleading. Certainly we don't approve, it's the approval of the Legislature and signed by the County Executive, so maybe that is a little misleading.

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Here again, our purpose -- and the committee spent a heck of a lot of time on this one, too, trying to sort this out, this is the meat of it really -- is that some questions have been raised with the whole acquisition program of did you do this, did you do that, did you get an appraisal or did you do the reviews and so forth. What we wanted to do is say well you don't need to do two appraisals and appraisal review for a \$5,000 acquisition in the middle of the Pine Barrens. So we said, okay, there's certain dominimous acquisitions, level one, keep it simple, keep it flowing. But as you went up the ladder there would be more -- very explicit standards, you must get two appraisals, you must get an appraisal review.

CHAIRMAN BISHOP:

Right.

COMMISSIONER ISLES:

So we know what we're doing, you know what to expect of us and so it's clear and we're not subject to interpretation or discretions.

CHAIRMAN BISHOP:

By offering up two votes, what I'm trying to do is to allow the administration to come back and raise issues to the Legislature that may cause us to rethink the initial authorization, or in this case planning steps. I'm trying to preserve the administration's ability to stop a deal which is what I was reading into C and D, but I didn't want that to be a unilateral power and I didn't think my colleagues wanted that to be unilateral power.

LEG. CRECCA:

I think what we want its --

CHAIRMAN BISHOP:

Andrew?

LEG. CRECCA:

I think we're all in agreement that we want the division director to look at the acquisition and see if it passes muster.

CHAIRMAN BISHOP:

Right, of course.

LEG. CRECCA:

If the appraisals look right, you know, if it -- because obviously it's going to come back on that division director. The same thing, you know, when you get to larger acquisitions you want a department head to be looking at it, you know, and when you get -- I think that's what this is driving at. I think the question what we're saying is -- and we realize that from deal to deal the process becomes different because of the uniqueness of a piece of property. But some of us -- I guess one of the things we're trying to address is sometimes a deal, the process to get an appraisal happens in six weeks, there's an appraisal, it moves along and the whole process takes three months or four months or five months, other times it takes a year to get an appraisal back, two years to get an appraisal. I mean, maybe I'm exaggerating, but point being is there's no consistency on the accountability of the department itself and that's probably a

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different question of what we're talking about here. But the reason it was brought up here is we don't -- we're trying to put a mechanism in to take out some of the discretion of the priority of projects, to make sure that all projects move along on a timely basis. The impression is that some projects are just pushed aside and not given as much attention; whether that's true or not --

CHAIRMAN BISHOP:

So did you get the answer?

LEG. CRECCA:

I guess that's really what we're driving at. I don't think anybody has a problem with --

CHAIRMAN BISHOP:

Them doing their function, right.

LEG. CRECCA:

Correct. And with their function, the way to handle this administratively is to have -- I'm sure you have documentation in a file that follows along, it should be a formal process, the division director's recommendation should be a written recommendation, "I have reviewed the documents and I believe this acquisition is worthy and it passes muster." The same thing with the department head approving it, "I have reviewed it, after review everything seems to be in order and kosher and let's move forward." No one is disagreeing with that. I think what we're saying is can that process -- this be moved along on all properties. We tried to avoid County Executive or departmental vetoing.

COMMISSIONER ISLES:

Absolutely. It's not the intent to veto.

CHAIRMAN BISHOP:

Maybe we need to define what three or four mean.

COMMISSIONER ISLES:

We can do that, yeah.

CHAIRMAN BISHOP:

Let's try that, maybe that will solve the problem. What does division director's recommendation mean to you?

COMMISSIONER ISLES:

Okay, what it means to me is that this is a resolution that the Legislature or a parcel that the Legislature has authorized us to either do planning steps on or do an acquisition on. So the question is not should we buy it or not buy it because you have already answered that and the County Executive has signed the resolution. When it's indicated here that the division director and the department head would then review it, one of the things we have noticed with some past acquisitions is that maybe we shouldn't have done some acquisitions in a manner we did them and so forth, obviously somebody has got to take responsibility for that. And the purpose of that is to have a check, more as to form as opposed to substance in terms of whether we should do it.

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So what I envision in my idea on this one is that the department, the division would know at the different thresholds, okay, you need to get the two appraisals, you need to get the review. The division director must then review and issue a memorandum saying, " I have reviewed the material, it's consistent with our policies and procedures for acquisitions," and then potentially the department head as well. That's what I see.

CHAIRMAN BISHOP:

Procedure review.

MR. SABATINO:

Compliance review.

CHAIRMAN BISHOP:

Compliance review.

COMMISSIONER ISLES:

Compliance review, good term.

CHAIRMAN BISHOP:

Excellent. All right, we all agree with compliance review.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

How about four; same thing?

COMMISSIONER ISLES:

Same thing.

CHAIRMAN BISHOP:

Okay, fine.

LEG. CRECCA:

Now --

LEG. FIELDS:

I have a question.

CHAIRMAN BISHOP:

Yes, I'm sorry.

LEG. CRECCA:

I never had mine -- can I just -- if I can. Do you see a way to implement -- I guess the question is how do we keep projects moving along and not leave the impression that certain -- and it probably isn't that way, but leave the impression that some projects are moving along at a quicker pace than others and some are left on the back burner? If you have any recommendations in that regard.

COMMISSIONER ISLES:

Yeah, I think that's a larger topic and one that we're concerned about too.

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CHAIRMAN BISHOP:

You just shot us off into tangent land.

COMMISSIONER ISLES:

Yeah, and I'll try not to get too afar into it. But we have made recommendations in terms of once a resolution is issued, we state that we're responsible to contact in writing with the owner that there is prompt ordering of the appraisal, that we can't go back and forth in getting repeat appraisals and so forth, and as Legislator Caracciolo spoke of earlier, that negotiations not drag on forever. So there's a whole tune-up that's being done here and they're all tied together I think in terms of the process. And think what I'd like to suggest is that we come back to you in a little while, once some of these things have gone into effect and let's talk about how we're doing on it.

LEG. CRECCA:

Okay.

CHAIRMAN BISHOP:

Okay. Now, let me -- do you want to ask a question on this?

LEG. FIELDS:

I'm concerned about coming back to the Legislature and slowing something down.

CHAIRMAN BISHOP:

Well, we're -- right now we're not.

LEG. FIELDS:

Okay.

CHAIRMAN BISHOP:

Any question on this?

LEG. CARACCILO:

No.

CHAIRMAN BISHOP:

Okay. So just to review, a level two would be the Legislature authorizes, it would go for an appraisal, the appraisal will be reviewed and then there would be administrative reviews to see that there was compliance.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

We agree with that.

LEG. CARACCILO:

Uh-huh.

CHAIRMAN BISHOP:

Do we agree with the thresholds that were established?

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LEG. CRECCA:

Yes.

CHAIRMAN BISHOP:

All right, that's essentially the process that we have now, right?

LEG. FIELDS:

The threshold meaning money?

CHAIRMAN BISHOP:

Yeah, 25/300.

LEG. FIELDS:

Didn't we change the first one to 75,000?

CHAIRMAN BISHOP:

No, we never actually did that. Okay, letter C, level three acquisitions. These are 300,000 to one million. There would be two simultaneous -- there would be Legislative authorization, two simultaneous appraisals, appraisal review and then the administrative reviews. So the difference here would be the dual appraisal.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

Once the answer -- are we going to at any point discuss what happens when these appraisals come in at different amounts; when do we discuss that, here or later on?

COMMISSIONER ISLES:

It's up to you.

CHAIRMAN BISHOP:

Later on.

COMMISSIONER ISLES:

Okay.

LEG. CARACCILO:
When is later on?

CHAIRMAN BISHOP:
Later on today or before we do an omnibus. Okay. And then we have over a million which is Legislative approval, two simultaneous appraisals, appraisal review, administrative reviews, and then a second Legislative approval.

COMMISSIONER ISLES:
Right.

CHAIRMAN BISHOP:
Now, let me ask you this. Does planning steps satisfy the first Legislative approval?

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COMMISSIONER ISLES:
In our opinion of the committee? Yes.

LEG. CRECCA:
May I?

CHAIRMAN BISHOP:
Sure.

LEG. CRECCA:
How does that -- if we're authorizing planning steps, how does that -- that allows you to go out and buy it?

COMMISSIONER ISLES:
No, that allows us to start the process, do negotiations.

LEG. CRECCA:
Oh, I'm sorry. I thought the question was does it allow you to go through the entire --

CHAIRMAN BISHOP:
Well, let me just go back. On B and C, what is potentially -- what is possible is that we can as the first step say go buy this, not just do planning steps.

COMMISSIONER ISLES:
Right.

LEG. CRECCA:
Which we can sometimes, we've done that.

CHAIRMAN BISHOP:
Right, we have that option now.

LEG. CRECCA:
Right.

CHAIRMAN BISHOP:
But what this is saying is that we can't do that any longer on a parcel that's above a million dollars, at minimum we'd have to have two votes.

LEG. CRECCA:

Correct.

CHAIRMAN BISHOP:

And that first vote could be a planning steps resolution or it could be an authorization resolution, but no matter what it's going to come back for a second vote.

LEG. CRECCA:

Right. But if it was only a planning steps they'd have to come back for authorization. Okay, I misunderstood. That's fine.

CHAIRMAN BISHOP:

And we could add a planning steps step in B and C if we chose to.

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COMMISSIONER ISLES:

Right.

LEG. FIELDS:

Now I have a question.

CHAIRMAN BISHOP:

Okay, Legislator Fields.

LEG. FIELDS:

I know this will come as a shock to everyone here, but let's take D, you have planning steps, you have two simultaneous appraisals, an appraisal review, a division director's review, I guess.

CHAIRMAN BISHOP:

Compliance review.

LEG. FIELDS:

Compliance, department head's recommendations and compliance review, and now you come before the Legislature with I guess the amount, so let's say it's one million and \$10 that you're going to pay, and suddenly the Legislator who has put this legislation in becomes not in favor with the rest of the political world. Would you then have a chance of voting it down and then not approving it for political partisan reasons?

CHAIRMAN BISHOP:

Yes.

LEG. CRECCA:

Absolutely.

LEG. FIELDS:

So that's not necessarily a good thing.

CHAIRMAN BISHOP:

Not necessarily, but the trade-off is that you would have greater oversight over deals that have the opposite scenario that were approved for pristine reasons and then got through horrible machinations changed into land grabs.

LEG. FIELDS:

I mean, is there a way of --

CHAIRMAN BISHOP:

I don't know, I'm trying to think of something.

LEG. FIELDS:

Is there a way of, you know, keeping the politics out of land acquisition? Because that is something that we shouldn't be doing and we should do everything that we can to prevent that from happening here.

CHAIRMAN BISHOP:

We're moving forward with the theory that the way to keep politics out

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of it is to increase disclosure and oversight, and I would say that that is what the general thrust of these reforms are.

LEG. FIELDS:

I'm just concerned with the and.

CHAIRMAN BISHOP:

Are you ever going to keep politics out of County government? It's very hard, you know, we're all elected through politics one way or the other.

LEG. FIELDS:

I think that I have a valid point and I'm very concerned that if there's a piece of property that everybody agrees in the very beginning is very worthy of acquisition and something very stupidly partisan happens or political happens, you could lose that acquisition.

LEG. CRECCA:

Yeah, but then you'd have to have -- you'd have to have elected officials, say it was an environmentally sensitive piece of land and it was something, you know, that was generally on the merits, was strong on the merits, you know, I think it's highly unlikely that you would get Legislators voting against the environment.

LEG. FIELDS:

Really?

LEG. CRECCA:

Yeah, I do. And I think that you get beat up by newspapers --

LEG. FIELDS:

In Islip Terrace?

LEG. CRECCA:

-- and community groups and things like that.

CHAIRMAN BISHOP:

You can't insulate the Legislature and the County Executive --

LEG. FIELDS:

It happened to me in Islip Terrace.

CHAIRMAN BISHOP:

-- from a process that's given -- that permits bad motives. Bad motives always are out there, we have to guard against acting on bad motives and hold accountable those who do act under bad motives. Like for example, there were many of us who felt there were very bad motives in a parcel in Islip Terrace and the voters spoke on that and held the system accountable by returning you.

LEG. FIELDS:
Except that --

CHAIRMAN BISHOP:
But you can't --

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LEG. FIELDS:
-- we still didn't get the piece of property; that's my point.

LEG. CRECCA:
(Inaudible).

CHAIRMAN BISHOP:
Yeah, we can't take a gun to the guy.

LEG. FIELDS:
I'm just concerned that something might happen, I don't know how to go about it to change that.

CHAIRMAN BISHOP:
All right. So do we agree with this?

LEG. CARACCILO:
Yes.

CHAIRMAN BISHOP:
We agree, you agree, to my right agrees. To my left, do you agree with this adopted?

LEG. CRECCA:
Yes.

CHAIRMAN BISHOP:
Okay. Adopted with that new language about compliance review as opposed to approvals (Vote: 5-0-0-0). Next?

MR. SABATINO:
The next item is 1373 which is recommendation 12 which stated that appraisal reports submitted by property owners shall only be considered in addition to the reports specified above.

LEG. CARACCILO:
Mr. Chairman?

CHAIRMAN BISHOP:
What does that mean?

MR. SABATINO:
It means don't use the seller's appraisal to buy a property.

LEG. CRECCA:

Even if the appraiser is on the list, correct?

LEG. CARACCILO:
Well, Mr. Chairman?

CHAIRMAN BISHOP:
Okay. So why doesn't it just say that? Why don't we just say don't use
-- seller's appraisals are not to be considered?

MS. COSTIGAN:
Because it can be --

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CHAIRMAN BISHOP:
What can they be considered for?

LEG. CRECCA:
Just as additional evidence?

COMMISSIONER ISLES:
Right, an appraisal -- a property owner may submit an appraisal that they feel has information that has bearing on the value of a property, and all this is saying is that we shouldn't rely on that and say okay, that's the value and go with it, but we're saying that we could accept that and review that and see if the facts in that appraisal have merit and warrant a readjustment perhaps and evaluation. If that were the case, we would go back to the original appraiser to ask for that review.

CHAIRMAN BISHOP:
So in essence, you're allowed to look at it but not follow it.

COMMISSIONER ISLES:
We could weigh what they're submitting and see if it has a merit.

LEG. CARACCILO:
Dave? Mr. Isles?

CHAIRMAN BISHOP:
I don't know why we need -- no, the rule that we need to adopt is that you can't rely on the outside appraisal.

LEG. FIELDS:
But wait.

CHAIRMAN BISHOP:
I don't think we need to authorize looking at it.

LEG. FIELDS:
The appraiser may be on our list that's the seller's appraiser. So I think that that's what you have to determine here, you know, that you're using a different appraiser just to have the check and the balance that you're not using -- let's say it's John Smith and he's the seller's appraiser and he's on our list of 30 appraisers, are we going to say okay, let's use John Smith's appraiser because he's on our list?

CHAIRMAN BISHOP:
No. And in fact, that's not -- I think what this is saying is that

John Smith wants to sell his property to the County, the County two appraisers came in at two million and he says, "Look at my appraiser, he said it's worth three million, why don't you consider this in forming the purchase price," and this is saying that we can't do that.

LEG. FIELDS:

No.

CHAIRMAN BISHOP:

But it is allowing us, our appraisers to look at it.

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LEG. FIELDS:

What if it's a one appraiser process and it's the same appraiser as the seller's appraiser?

MS. COSTIGAN:

In the earlier resolution that you concluded earlier, the appraiser has to certify that he doesn't represent the seller.

LEG. FIELDS:

Can you use the microphone?

MS. COSTIGAN:

I'm sorry, it's not working. Is it working now? You concluded earlier in a previous resolution that the appraiser had to certify that he doesn't represent the seller, so there would be a certification from that appraiser who is a professional.

LEG. FIELDS:

That's right. Very good.

CHAIRMAN BISHOP:

This is about the seller submitting an appraisal that he obtained and we're saying you can't look at that.

MS. COSTIGAN:

Right.

CHAIRMAN BISHOP:

Go ahead, Mike.

LEG. CARACCILO:

What formed the basis for this recommendation?

COMMISSIONER ISLES:

The committee did review prior appraisals that were submitted in some cases and on a general point of discussion, we felt that an appraisal submitted by a property owner may reflect the point of view of the property owner, there may be a conflict of interest between the appraiser and his role with the owner. And here again, this may be useful and professional information, but for us to rely upon it for a purchase we felt was not good and that we should only rely on our reports, taking input from a private report if it comes in but the final determination would be on our reports.

LEG. CARACCILO:

Has the County ever made a sizeable acquisition, let's say a million dollars or more, where it did not have a County appraisal?

COMMISSIONER ISLES:

I'm not sure if we bought any without a County appraisal. We have bought properties where we have relied on information provided by a private owner's appraisal, we have done that.

LEG. CARACCILOLO:

On the Campo acquisition, was there a County appraisal ordered?

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COMMISSIONER ISLES:

Yes, there was.

LEG. CARACCILOLO:

And what was the value, if you recall, of that appraised value?

COMMISSIONER ISLES:

Well, two things. Number one is I don't recall the appraised value off the top of my head, but number two is the County is a defendant of litigation on that case right now and I would rather not talk about it on the record.

LEG. CARACCILOLO:

Okay. As you know, I requested and you have forwarded to me a number of documents relating to the Campo acquisition. I have not seen a County appraisal in the documents you submitted to me; when can I expect a copy of that?

COMMISSIONER ISLES:

We have a County appraisal on that.

LEG. CARACCILOLO:

Okay. I've seen the review appraisal.

COMMISSIONER ISLES:

It was done earlier on in that process, but --

LEG. CARACCILOLO:

I've seen the seller's appraisal, I have not seen the County's appraisal.

COMMISSIONER ISLES:

If you don't have a copy, we'll certainly get you another copy. We had multiple copies of that file made.

LEG. CARACCILOLO:

As you know, there has been quite a number of pieces of correspondence between your office and mine on real estate transactions, and that's one document I can assure you I have not received.

CHAIRMAN BISHOP:

(Inaudible).

LEG. CARACCILOLO:

Well, I think, Mr. Chairman, the purpose of this discussion and the recommendation, it was obvious to the members of the task force why this is included as a recommendation.

CHAIRMAN BISHOP:

Is that it on this?

COMMISSIONER ISLES:

The only point I want to make is that the last meeting of the Environment Committee a representative from The Nature Conservancy did speak on this issue and I think expressed a point of view, and I don't want to speak for them but I don't want to discount what they said at

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the last meeting, that there may be a role for privately submitted appraisal reports. I'm just reminding you of that and, here again, I don't speak for them at all.

CHAIRMAN BISHOP:

This is with regard to the purchase price, right?

COMMISSIONER ISLES:

Yes.

CHAIRMAN BISHOP:

The Nature Conservancy a lot of times comes in with those tax deals where perhaps the appraisal is used to establish the value of the --

COMMISSIONER ISLES:

Right, that's different, yeah.

CHAIRMAN BISHOP:

-- of the gift. I mean, I'm hoping there's a distinction between the two and that everybody would be happy.

LEG. FIELDS:

Which one are we on?

COMMISSIONER ISLES:

I'm only making the points and I'm looking at my notes from that last meeting that a comment was made that -- let me just see, "Allow property owners to submit appraisals." I don't think there was much of an explanation and I don't want to speak for them, but I just want to -- in fairness to their point of view, I just wanted to let you know that they had said that at the last meeting.

CHAIRMAN BISHOP:

And I'm saying that they want to allow property owners to submit their appraisals because they're trying to establish the value of the gift.

COMMISSIONER ISLES:

Right.

MS. LANZA:

No.

CHAIRMAN BISHOP:

They're trying to -- that's all right, you're trying to establish the value of the property that the taxpayers are going to pay for, with an appraisal submitted by an outside entity?

COMMISSIONER ISLES:

That I don't know.

CHAIRMAN BISHOP:

That's out of the question. I think what we need to do is to get, especially with the large deals, two qualified County appraisers and rely on them completely.

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MR. BURKE:

Absolutely.

CHAIRMAN BISHOP:

Which is where we're heading.

LEG. CARACCILO:

Mr. Chairman, just before we leave number 12, the recommendation indicated that, "An appraiser's report submitted by the property owner may be considered in the negotiation process but should never be accepted in place of an independent or in-house appraisal. Any change in offer and price based upon the review of such an appraisal shall only occur when review and acceptance of that price by the original appraiser retained by the County." Are you at liberty to answer a question related to Campo? In the Campo acquisition, was that recommendation followed?

COMMISSIONER ISLES:

Here again, I have to be a little careful since we are a defendant of litigation; to my knowledge, no. This was not a procedure in place at that time, but to my knowledge no.

LEG. CARACCILO:

Thank you.

CHAIRMAN BISHOP:

This says that we have to rely on the County appraisers. The outside appraisal can be submitted to the County appraiser who could adjust, based on his professional knowledge and the knowledge he gains by looking at this other outside appraiser. Do we agree with that? Counsel, do you have an opinion?

MR. SABATINO:

That's the correct summary of the theory. The theory is that -- and in fact, the practice should be that you only use the County appraisal but you're entitled to let your appraiser or your review appraiser, look at documents submitted by the other side, you just can't substitute the other person's documents for the County's documents.

MR. BURKE:

Right.

CHAIRMAN BISHOP:

Okay. So that's the practice that should have been in place in the first place.

MR. SABATINO:

Yes, that's the practice that normally you would expect to have in place. Given the fact that it didn't occur at least in one circumstance, that became the basis for this recommendation, as I understand it.

CHAIRMAN BISHOP:

All right.

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MR. SABATINO:

And this would codify it and make it clear-cut to those that didn't understand that that's the way you do it.

CHAIRMAN BISHOP:

Adopted, right? Everybody agrees, yes. Adopted (Vote: 5-0-0-0). Next?

MR. SABATINO:

That was 1375. The next one is 1360 --

CHAIRMAN BISHOP:

That was 1373.

MR. SABATINO:

I'm sorry, 1373.

The next one is 1366 which is Item No. 13 in the report which states that repeat appraisal reports should not be ordered unless there is an error or extensive time lapse from the preparation of the original report.

CHAIRMAN BISHOP:

Well, let me say this. The markets move rapidly, right? This is -- I don't know if this is a good idea or not when I read this, because things could change very rapidly in a six month period and we're not -- this seems innocuous, particularly since it doesn't say how long a period, does it?

COMMISSIONER ISLES:

No.

CHAIRMAN BISHOP:

No, it doesn't say how long a period. So it's -- I don't know. It seems like it's an invitation for a lot of arguing and after the fact quarterbacking. I think that more information is generally better and if the Real Estate Division has quality appraisers then this shouldn't be a problem.

LEG. FIELDS:

I think what this is trying to state is that in the past we had a situation where there was a recommendation and then the Real Estate Director went and sought other appraisals.

CHAIRMAN BISHOP:

It's trying to prevent -- I'll just say it in plain language; fishing for the --

LEG. FIELDS:

Right.

CHAIRMAN BISHOP:

You know, keep going out until you get the right answer. But if you have appraisers with integrity and qualifications and we're doing a good job on that end, then this shouldn't be a problem, and this simply -- to adopt this policy could prevent us from reacting to

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market conditions that are changing rapidly which I wouldn't want to get into. That's my opinion.

LEG. CRECCA:

It also could prevent in a situation where the -- when they were going through and trying to look to see if there was compliance with the appraisals, that they felt there was something they just felt more comfortable getting a third appraisal to confirm some of the numbers or something like that, I think we have to leave that discretion for the Real Estate Department to be able to do that, especially if something looks amiss in the process.

LEG. CARACCILOLO:

Mr. Chairman, can we request a definition to extensive time lapses; what period of time?

LEG. CRECCA:

It depends on the market.

COMMISSIONER ISLES:

Yeah, it's not fully definable, but it's really a judgment and would ultimately be in this case the department head or the division head. And the basic point of this, as the Chairman indicated, is that we're not giving the appearance that we're fishing for a number, that we're doing appraisal shopping. There was some criticism of one acquisition done by the County that what we paid for a parcel was many times what the earlier appraisal showed and so forth. So the danger that this is seeking to deal with is to avoid the appearance of appraisal shopping or monkey business, whatever you want to call it.

In terms of the legitimate concern for coming up with an accurate estimate of value and paying market value, it is very difficult in the rising market. Newsday reported last week that property sales in Western Suffolk or Suffolk went up 33% in one year. So I think this is deliberately not explicit saying it has to be at least a year and so forth. A lot of this does come down to judgement. I think in this case, moving the process promptly, getting the appraisals, making negotiations and offers and if we can cut a deal, great, if we can't then there has to be a darn good reason why we have to -- why we should be going out and getting another appraisal. And there just should be something to note that, a memo in the file from the Director or something that based upon the facts of the case in terms of the market dynamics or whatever else it might be. There has to be some basis to do another appraisal beyond the two that are talked about or the one, and that we not conduct any business that one might construe as being not appropriate.

LEG. CARACCILOLO:

The Newsday story dealt with residential home sales, not all real estate, so I think we have to be careful for the record that it doesn't reflect all real estate went up 33%. It was very --

COMMISSIONER ISLES:

Yeah, it was residential.

LEG. CARACCILOLO:

Yeah.

COMMISSIONER ISLES:

Sometimes vacant can go up more, though.

CHAIRMAN BISHOP:

All right. What do we want to do with this? I would urge that we -- it's too nebulous to have value, I would say.

LEG. FIELDS:

Can I just make a recommendation? That when you do your revamping of the department, that maybe somewhere there is written something to the effect of if you're looking to change an appraisal that there be definitely written recommendations of why you're asking for another appraisal.

CHAIRMAN BISHOP:

Okay. Yeah, that one is not bad.

COMMISSIONER ISLES:

That's fine. And we have actually implemented this, as I said, administratively

CHAIRMAN BISHOP:

Why don't we adjust the recommendation to when subsequent appraisals are ordered that there be a memo to the file indicating why. And it could be, you know, we feel the market is changing and we want to take another look at the number. That's agreeable?

LEG. CARACCILO:

Uh-huh.

LEG. CRECCA:

You want to codify that?

CHAIRMAN BISHOP:

Yeah.

LEG. FIELDS:

Yeah, that way it's then in the file.

MR. BURKE:

Codifying a number to the file.

CHAIRMAN BISHOP:

What? A memo in a file is bad?

COMMISSIONER ISLES:

Should that be in the code?

LEG. CRECCA:

I don't know if you want to make that a law.

CHAIRMAN BISHOP:

Okay.

It's certainly good practice.

COMMISSIONER ISLES:

Yeah. We'll do it as practice, as you suggested, Legislator Fields.

LEG. FIELDS:

That's what I'm saying, yeah; administratively you can do that.

CHAIRMAN BISHOP:

All right, good. So it's rejected (Vote: 5-0-0-0). Next one.

MR. SABATINO:

The next one is IR 1361 which is Item No. 14 which stated that the County should retain control over the negotiation process except as may be specifically delegated by agreement, in which case all final negotiations shall remain vested with the County.

LEG. FIELDS:

What does that mean?

CHAIRMAN BISHOP:

It means that we can't allow the towns to negotiate our number, and that's what happened in Chandler Estate, I feel. I felt that that's what the file showed me, was that the town was negotiating the deal and we were just footing the bill.

LEG. CARACCIOLO:

Who negotiated the Shadmore and Oak Beach Inn acquisitions?

CHAIRMAN BISHOP:

Well, Oak Beach Inn was the County.

COMMISSIONER ISLES:

Yeah, I wasn't here for Shadmore, I can't answer that fully. It was a joint acquisition with the Town of East Hampton, The Nature Conservancy --

LEG. CARACCIOLO:

The State.

COMMISSIONER ISLES:

-- the County of Suffolk and the State of New York, yes. So in terms of who negotiated to set the price and then came up with the final price, I think it was done by those parties in agreement. Here again, I wasn't there or here or there and I don't feel comfortable in answering that definitively. The County did handle the negotiations on OBI, we did contract with The Nature Conservancy to be our agent for that. That was also an acquisition that involved the State of New York and the Town of Babylon.

LEG. CARACCIOLO:

The Nature Conservancy was also a part purchaser, if you will, of the Shadmore property?

COMMISSIONER ISLES:

Right.

LEG. CARACCIOLO:

Yes, no?

COMMISSIONER ISLES:

Yes.

MS. PANDYA:

I'm sorry, Alpa Pandya with The Nature Conservancy.

CHAIRMAN BISHOP:

Why don't you take a microphone.

MS. PANDYA:

Do you want to say it? Go ahead since you know it better.

MS. LANZA:

What was the question again?

LEG. CARACCILOLO:

Okay. Was The Nature Conservancy a part purchaser of the Shadmore property?

MS. LANZA:

Yes. Yes, we were.

LEG. CARACCILOLO:

Okay. You say yes, she says no, he says yes; it's yes.

LEG. FIELDS:

Mike, have her identify herself.

MS. LANZA:

Oh, I'm sorry. Heather Lanza, The Nature Conservancy. Well, we put a million dollars into it.

LEG. CARACCILOLO:

Okay.

MS. LANZA:

But we weren't --

LEG. CARACCILOLO:

I have lots of questions about Shadmore but now is not the time. But I appreciate, Mr. Chairman, that we have some hearings to deal with some County acquisitions that shouldn't be, you know, ignored that have serious questions as to how they came about.

CHAIRMAN BISHOP:

You know, it might be helpful if you want to, you know, propose a specific hearing on a specific topic or at least give the questions, we could do it at the next hearing that we generally have, if you give the questions in advance maybe they can come with the answers. Either way, Mike, just --

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LEG. CARACCILOLO:

I appreciate it.

CHAIRMAN BISHOP:

-- I appreciate the fact that you say now is not the time. Okay.

MR. SABATINO:
1361

CHAIRMAN BISHOP:
Right, thank you, which says that we're not to cede control to another entity. Does this include not ceding control to a contract vendee -- vendor, rather, Nature Conservancy?

COMMISSIONER ISLES:
Well, The Nature Conservancy is often used as a contract agency by the County as an agent for us. We have agreements with The Nature Conservancy and Peconic Land Trust where we can use them as our agent to negotiate acquisitions, put together deals and so forth.

CHAIRMAN BISHOP:
That would be considered within our control under this.

COMMISSIONER ISLES:
Right. And they would obviously have to report back to the County for approval of all transactions they negotiate.

LEG. FIELDS:
Maybe you could change it to, "RESOLVED that the County of Suffolk or its agent shall retain control".

COMMISSIONER ISLES:
Well, we still want to retain control.

MR. SABATINO:
You want to control them. You want to control the agents.

COMMISSIONER ISLES:
Okay. And by the way, they have done a very good Job helping us, so we would like to keep that.

MR. SABATINO:
Including the agents.

CHAIRMAN BISHOP:
What did he say?

COMMISSIONER ISLES:
They have done a great job helping us, TNC and PLT, so it's worked very well.

LEG. CARACCILO:
But on that point, let's keep in mind that they receive a fee for their services.

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COMMISSIONER ISLES:
Yes, they do.

LEG. CARACCILO:
All right? And, you know, there could be a potential conflict in some of the acquisitions they're negotiating and they may or may not be receiving a fee.

COMMISSIONER ISLES:

That's definitely an issue, we have talked to them about that and I think we have a good understanding on that.

CHAIRMAN BISHOP:

You mean they can receive a fee only if it goes through?

COMMISSIONER ISLES:

They receive a fee based on the transaction, that's the existing agreement. We've discussed with The Nature Conservancy modifying their agreement so that it would be a sliding scale, the more cost the less they get in terms of the percentage of the acquisition. So that there is a disincentive, so to speak, of going higher.

LEG. CARACCILOLO:

All right, just I think to make the point. On the Shadmore acquisition, how much was the fee paid to The Nature Conservancy?

COMMISSIONER ISLES:

I don't know that there was a fee and I'd have to get back to you on that one.

LEG. CARACCILOLO:

Okay. Heather, was there a fee?

MS. LANZA:

We actually put a million dollars into it.

LEG. CARACCILOLO:

Well, I'm aware of that. There was no fee.

COMMISSIONER ISLES:

No fee, okay.

LEG. CARACCILOLO:

There was no fee, okay.

CHAIRMAN BISHOP:

Okay. That one is adopted I assume, right, five nothing. Adopted (Vote: 5-0-0-0). Okay, moving on.

MR. SABATINO:

The next one is IR 1368 Item No. 15 which stated upon authorization of acquisition by the Legislature, including authorization of planning steps, contact with the property owner should occur promptly and should be in writing.

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LEG. CARACCILOLO:

No, that's not --

CHAIRMAN BISHOP:

We didn't do this?

MR. SABATINO:

No, no, this is after you get past the planning steps.

CHAIRMAN BISHOP:

Seventy-six?

MR. SABATINO:
No, 68, 1368.

COMMISSIONER ISLES:
There's confusion, I'm sorry.

COMMISSIONER ISLES:
That has been administratively implemented at this point.

CHAIRMAN BISHOP:
Sixty-eight may have been one we already did. Just say it out loud, what's the recommendation again?

COMMISSIONER ISLES:
It's a very simple recommendation and it's almost, I hate to use the term, but a no-brainer in the sense of just the practice of the department and we have implemented this. That any time we receive a planning steps resolution that we contact the owner in writing to determine if they're interested in a sale for the County. That often times does happen by a memorandum or a letter, sometimes it happens by telephone, sometimes there was prior contact with a local Legislator, for example, and they were already aware of the planning steps.

CHAIRMAN BISHOP:
Okay. I don't think this has to be codified.

COMMISSIONER ISLES:
No.

CHAIRMAN BISHOP:
It's certainly not a reform coming out of --

MR. SABATINO:
Right.

COMMISSIONER ISLES:
It's just a practice that we want to put into effect.

MR. SABATINO:
That was IR 1371, just for the record.

CHAIRMAN BISHOP:
Rejected?

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MR. SABATINO:
Rejected.

CHAIRMAN BISHOP:
No, I'm saying to my colleagues. Rejected?

LEG. CARACCILO:
Yes.

CHAIRMAN BISHOP:
Thank you. Rejected (Vote: 5-0-0-0). Next?

MR. SABATINO:

The next one should be 1379 which was Item No. 16 which states that any offer of acquisition should be in writing and should be fully substantiated in the file with reporting documentary information.

CHAIRMAN BISHOP:
I don't have this.

LEG. FIELDS:
What number is this?

CHAIRMAN BISHOP:
He says 79 but I don't have this on mine.

MR. SABATINO:
It's 1379, right.

LEG. CRECCA:
Mr. Chairman, if I may.

CHAIRMAN BISHOP:
Yes?

LEG. CRECCA:
Just that I think to codify this is a mistake in that --

CHAIRMAN BISHOP:
What is the point of this one?

COMMISSIONER ISLES:
This is similar to the one prior to this in terms of when the planning steps reso is received we send out a letter. It's the same thing, that whenever we make an offer of acquisition it should be in writing and it's just a basic practice, we do it anyway, and that any file where we have made an offer of acquisition, there should be a clear paper trail documenting how that offer was achieved. We want to make it clear that when anybody goes back in a file, a Legislator or any future citizen of Suffolk County, that there's a clear paper trail. We consider this to be just a business practice, a management practice. It has been implemented administratively and we would agree, we don't think it's the type of thing that would typically be codified.

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LEG. CARACCILOLO:
Mr. Chairman, I would point out that in conversations I have had with Mr. Isles, it appeared that there were documents and memos that I had that he did not have in the Division of Real Estate, and I don't know if that specifically led up to this, but you and I have talked about records file management. And that leads me to the question of when Mrs. Costigan's predecessor left, he obviously didn't leave immediately, there was a period of time before he left, and what if any supervision was there over what records were taken out-of-County files by that individual; was there any?

COMMISSIONER ISLES:
I guess a couple of points to answer that question. Number one is that when the former director left he resigned, he was not brought up on any charges at that point, both within the County or outside of the County. Obviously there was the issue of a possible conflict of

interest or an appearance of a conflict with his title company practice. But just so you know that there was no -- there were no charges or criminal or other matters pending against him.

In terms of the file control at that point, as there were questions relating to files I took possession of those files in the Planning Department office. I will also tell you that in my discussions last week with Ms. Costigan as she came aboard last week, that that's one thing that I alerted her to, that that's of a priority in terms of the file management, so it's something we do consider important. And the purpose of this recommendation is just to say there has to be that paper trail there and it has to be documented to the file, as you and I discussed the idea of maybe a file log sheet on the file to note what's in there and so forth.

LEG. CARACCIOLO:

Okay.

CHAIRMAN BISHOP:

Are we adopting this one or rejecting it? I think we're rejecting it, right? It's another one that should be handled administratively. Okay. Rejected (Vote: 5-0-0-0). Next?

MR. SABATINO:

The next one is 1382 which was Item No. 17 which stated that there should be no discretion by the division Director or department head to exceed the approved appraised value for an acquisition.

CHAIRMAN BISHOP:

Well, don't we allow 5% now?

LEG. CARACCIOLO:

No.

CHAIRMAN BISHOP:

Ten percent?

COMMISSIONER ISLES:

No.

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CHAIRMAN BISHOP:

Am I speaking the hidden truth?

LEG. CARACCIOLO:

Well, this is why I wanted the County Attorney here because I specifically wrote to the County Attorney on this issue back in December, I have not received a reply. So Mr. Grier, if you could come up. You may or may not be familiar with my memo, but it essentially addresses the issue that's contained in the task force recommendation.

CHAIRMAN BISHOP:

All right. But Mike, let's not have an entire Legislative hearing on this, let's just --

LEG. CARACCIOLO:

No, no, no. I'd just like to know --

CHAIRMAN BISHOP:

Let's just get what the status of the current law is and whether we would want to --

LEG. CARACCIOLO:

Right. Dave?

MR. GRIER:

Dave Grier, County Attorney's Office. I have seen your letter, Legislator Caracciolo. I am not the one who is actually doing the research and formulating the response. I did speak with the County Attorney last week about that and he indicated that the research is ongoing and a response will be forthcoming. Because we hadn't issued a response yet so I was inquiring just in case you inquired of me at a Legislative meeting I knew where we were in the process; it will be forthcoming.

LEG. CARACCIOLO:

I appreciate that. Do you have an idea of when that may be forthcoming?

MR. GRIER:

No. I understand that he had spoken with the attorney who was working on it and they were in the process of drafting the response when I spoke to him last week, so I would expect it in the near future.

LEG. CARACCIOLO:

Okay. The chairman alluded to, and correctly, that there was, as I recall, even remarks by the former division director that there was discretion to go 10% on the real estate acquisition that he believed he had. And some would call that a County doctrine, and I don't know that it is or it isn't. But where is it embodied in law or practice in this County or anywhere in the state for a municipality to pay above fair market appraised value?

MR. GRIER:

All I can tell you from what I do know is that no, it's not in any written document that we have, it's not a written policy in the County

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anywhere. And all I can tell you is that under the State Constitution, we can pay whatever is within the range of fair market value. Fair market value and appraised value are not necessarily the same thing because, again, as Mr. Isles has indicated, appraisals are estimates of value. And as he has also indicated, appraisals and what we've seen in auctions could be very different, so they're not necessarily the same. But we are constrained by the Constitution to only pay up to what fair market value would be considered.

LEG. CARACCIOLO:

Well, who ultimately determines that, fair market value?

MR. GRIER:

Typically we would use an appraisal as an estimate of what that fair market value is. And again, it's not a -- there's no -- it's not a science.

LEG. CARACCIOLO:

Would you use comparables where there are comparables?

MR. GRIER:

Whatever the appropriate appraisal methodology is on the particular parcel, we would rely on our appraisers to do so and that's the basis in which we would go by.

LEG. CARACCIOLO:

Because when we get into the realm of farmland, there are plenty of comparables for farms that the County purchases. But again, there has been a practice that I think needs review and, Tom, you and I have talked about this, and that is where we have a partner in an acquisition and the County pays what it believes is the fair market value and then a second entity comes in, whether it's one of the County's agents like The Nature Conservancy or it's a town or some other entity, and they pay the difference that the owner is seeking for the sale of their property; is that a practice you're familiar with?

MR. GRIER:

I have not, you know, been involved in any acquisitions at all and I'm not aware that that has been an ongoing practice. It may or may not have happened in a particular instance, but that's not something that I'm aware of that is a regular practice.

LEG. CARACCIOLO:

Well, would that practice be deemed appropriate and acceptable?

MR. GRIER:

I wouldn't be able to answer because we haven't analyzed that particular question. I don't recall if that was one of the questions you put in your memo to be addressed, and if it was we will have a response to that.

CHAIRMAN BISHOP:

When will you have the response?

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MR. GRIER:

I don't have a set deadline, as I said.

CHAIRMAN BISHOP:

Well, can we give you a deadline that we would like? Because we're trying to -- that answer is critical to our determination of this question on this specific recommendation and the task force report. If there's no legal basis at all to go above the appraised value, then there's no question that we have to, we'll codify this; if there is, then it's a policy question. So I would like to get that answer.

MR. GRIER:

Well, I'm not at liberty to set a deadline for the County Attorney. If the Legislature would like it within a certain period of time, I will certainly convey that.

CHAIRMAN BISHOP:

You can make a phone call. Can you find out where they're at with it? It's an important question.

MR. GRIER:

As I said, I spoke to him last week.

CHAIRMAN BISHOP:

We're -- as you can see by what we're doing here today, we're taking this report very seriously and working very diligently at considering each and every one of its recommendations. And there are questions that we're putting off to another day, but we have a commitment from people to your right that they're going to get us answers by two weeks on those questions.

LEG. CARACCILOLO:

Mr. Chairman, I would note --

CHAIRMAN BISHOP:

Can you help us get an answer on this question?

MR. GRIER:

What I would suggest is I will bring back to the County Attorney that you're looking to formulate your omnibus to be laid on the table by the next meeting and that he have a response sufficiently in time for you to review it.

LEG. CARACCILOLO:

I think it would be very helpful in the reply if, as noted here in 17 at the end, it says, "The County may not pay more than fair and adequate consideration when acquiring properties." Can we have some kind of definition as to what that means?

CHAIRMAN BISHOP:

Well, we're trying to -- that's what we're grappling with, is fair and adequate consideration fair market value which implies some measure of flexibility, or is it appraised value which denies that flexibility?

LEG. CARACCILOLO:

I agree with you. And I would also note that the --

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CHAIRMAN BISHOP:

And that's what we're looking for.

LEG. CARACCILOLO:

-- County Attorney was the Chairperson of this particular committee.

CHAIRMAN BISHOP:

Right.

LEG. CARACCILOLO:

And did he support this recommendation, Mr. Isles?

CHAIRMAN BISHOP:

That's why I'm a little incredulous that I can't get a commitment to get an answer in time.

LEG. CARACCILOLO:

Okay. Well, just let the record reflect that the County Attorney did support this recommendation. So I think the issue is settled, I think it's now before us and we should adopt it.

MR. GRIER:

What I can tell you is just as far as what fair and adequate

consideration is, the courts have not set a specific definition necessarily to look at it on a case by case basis. So you couldn't set, you know, a threshold level so to speak for what fair and adequate is, it is on a case by case basis which the courts have reviewed that.

CHAIRMAN BISHOP:

I think that we need get that answer and then consider the policy implications.

LEG. CARACCIOLO:

I am not opposed to getting some further clarification.

CHAIRMAN BISHOP:

And I congratulate you on asking the question timely as you did.

LEG. CARACCIOLO:

It's an issue that has to be resolved because we have a new Division Director and we have a request to set up a different department which we haven't come to yet, but I think the people clearly in charge of this program need the direction and the policy outlined so that there's no ambiguity as to whether or not this can or cannot be done.

CHAIRMAN BISHOP:

Flag that one, would you, please, that we need to come back to that? You'll carry that message back?

MR. GRIER:

Yes, I'll convey that to the County Attorney.

CHAIRMAN BISHOP:

I appreciate that. Next?

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MR. SABATINO:

1376 which was Item No. 18 which is really the companion to 17 because it makes the same conclusion that was made in No. 17 but it just extends it to in joint acquisitions with municipalities and other governmental entities, the total purchase price should not exceed fair market value.

CHAIRMAN BISHOP:

All right. What this is about, just to refresh everybody's recollection, is that the Town of Brookhaven kicked in money that took it above the appraised value, and this is saying that we can't do deals that allow that to happen; correct?

COMMISSIONER ISLES:

Correct.

CHAIRMAN BISHOP:

All right.

LEG. CARACCIOLO:

Tom, did -- if I may. In addition to perhaps that motive for this becoming an item, didn't our previous conversations we had about my concern that I hinted at a moment ago with the towns, other towns besides Brookhaven, kicking in and purchasing property with the County for values in excess of fair market value simply because the County

would not go above its appraised values.

COMMISSIONER ISLES:

Right, appraised value being the key thing. And we have had cooperation, in fact, some of our programs, Land Preservation Partnership incurred cooperation with municipalities. And where we tried to fill a gap in an acquisition, some municipalities have stepped to the plate and provided additional funds. What this recommendation says is that we shouldn't go above market value, whatever that may be defined as or determined as, at least for public monies, municipalities and governmental entities that are involved.

LEG. CARACCIOLO:

And again, I would go back do definitions, I think it's very important for the division and the Director to have and the Deputy Director and everybody associated with Real Estate transactions, a list of definitions so there's, again, nothing ambiguous about what we're talking about.

MR. SABATINO:

Just one technical point. I wasn't sure if the committee did this on purpose or by accident, but on Item No. 17 they used the correct language which is, "Not to exceed the approved appraised value," then in 18 I thought they were tracking but then it went and said, "Not to exceed fair market value." So I don't know if that was a distinction made on purpose or if it was accidental and I think that has to just be clarified.

COMMISSIONER ISLES:

Yes, that gets to some of the issues of language. It certainly wasn't

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intended to be any different, the idea being approved appraised value, it may be an appraisal, it may be adjusted and so forth.

MR. SABATINO:

I thought that was the case. I mean, that was a note that I made but I wanted to be sure.

CHAIRMAN BISHOP:

Is there in your opinion a scenario where this would be a valuable tool and legal? I assume that we're implying by this it would be illegal. If the fair market value is a hundred for the town and the County to come together and pay 120, but is there a scenario where we appraise it at a hundred and it sells for 120 and it's still legal?

COMMISSIONER ISLES:

I will leave that for the County Attorney to answer, I can't answer that one, in terms of what's legal or not legal.

CHAIRMAN BISHOP:

Because I'll tell you something I've done in my district which is I've said to municipalities that want to condemn property that the County would pay the appraised value but we're not paying anything above that, they have to pay the premium if they're going to condemn it and whether they want to do a partnership with us. Now, would that now be forbidden under this?

COMMISSIONER ISLES:

The committee discussed this in detail and felt that public monies, whether it be County, town or other municipal or governmental entities should not exceed the value of the property, however that may be determined.

CHAIRMAN BISHOP:

So the value in that case is determined by the court.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

So I guess it would be legal.

COMMISSIONER ISLES:

Right.

CHAIRMAN BISHOP:

Okay, good.

COMMISSIONER ISLES:

That's a good point.

CHAIRMAN BISHOP:

You want to -- well, maybe we should -- is that fair market value when the court determines it?

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MR. SABATINO:

No, it's just compensation, it's a totally different standard, two different worlds.

CHAIRMAN BISHOP:

So maybe I should include some language here.

MS. COSTIGAN:

It has to be a willing buyer and seller to have fair market value, in a condemnation you don't have a willing -- it's a different concept.

CHAIRMAN BISHOP:

Can I get some language, Paul, to protect that kind of arrangement which I don't think we want to make illegal?

MR. SABATINO:

Well, just clarify for my benefit. Is it truly a condemnation proceeding? Because you can only do just compensation where you have vested title by virtue of an eminent domain proceeding law procedure.

CHAIRMAN BISHOP:

Yeah. The --

MR. SABATINO:

If you -- I'm trying to imagine how the County could be involved in that kind of a transaction because --

CHAIRMAN BISHOP:

Well, you're the one who brought me there several years ago. The example I have is in the Village of Lindenhurst, they wanted to create

a park. They condemned the property and the County, through our Open Space Program, paid them back --

MR. SABATINO:
So the condemnation --

CHAIRMAN BISHOP:
-- the appraised value but they paid the premium of whatever the appraised value, whatever was tacked on to the appraised value by the court.

MR. SABATINO:
If there's a just compensation court order that's in excess of the appraisal then they're covered, they haven't violated the law. That's not what this was directed at. This is directed at --

CHAIRMAN BISHOP:
I know it's not directed at that, that's exactly -- so I'm trying to guard against bringing that in.

MR. SABATINO:
By definition it's out because that was --

CHAIRMAN BISHOP:
Which definition?

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MR. SABATINO:
No, by definition meaning that a court ordered condemnation proceeding is not fair market value, it's not approved appraised value.

CHAIRMAN BISHOP:
Right, exactly, and this says you can't exceed fair market value. So I go back to my question, does that make that illegal then, since the only thing that's authorized is fair market value? And if it is, can I get something in there to --

COMMISSIONER ISLES:
I think this was anticipating a willing seller, a negotiated acquisition, not a condemnation.

CHAIRMAN BISHOP:
I know, I'm just trying not to --

MR. SABATINO:
I would say put a clause in, "Except in those circumstances in which a court has ordered just compensation in an amount which exceeds fair market value."

CHAIRMAN BISHOP:
Excellent, thank you. Okay, those remaining?

LEG. FIELDS:
So we're leaving it as fair market value?

CHAIRMAN BISHOP:
Yes.

MR. SABATINO:

It's actually -- I take it back, it's approved appraised value to be consistent with Item No. 17, so it would be, "In excess of approved appraised value."

CHAIRMAN BISHOP:

Right. Okay. Adopted (Vote: 5-0-0-0). Next?

MR. SABATINO:

The next item is 1365 which was recommendation 19 which stated "The department head, in consultation with the County Attorney, should review procedures for the selection of title insurance companies."

CHAIRMAN BISHOP:

Administrative, we're waiting for your --

COMMISSIONER ISLES:

That's in process, yeah.

CHAIRMAN BISHOP:

1365, we're waiting for that to come back. And that's something that's coming back to us quickly, right?

COMMISSIONER ISLES:

It's under works right now. If you want a report back to you, we'll be

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happy to do that at the next meeting.

CHAIRMAN BISHOP:

So we can consider it in the omnibus after we file it. Okay, thirteen --

MR. SABATINO:

The next one is 1385 which is Item No. 20 which stated, "There will be no bargain sales except when the agreed upon purchase price is less than the County's approved appraised value of the subject acquisition."

CHAIRMAN BISHOP:

That's not -- my 1385 is regarding charitable donations.

MR. SABATINO:

That's the charitable donation clause.

CHAIRMAN BISHOP:

It is, okay. There will be no --

MR. SABATINO:

I mean, that's the technical language that was in the recommendation.

CHAIRMAN BISHOP:

Do you -- are you here to oppose that?

MS. LANZA:

I would love to make a comment.

CHAIRMAN BISHOP:

Yes, please.

MS. LANZA:

Heather Lanza, The Nature Conservancy.

MR. TURNER:

John Turner, Director of Conservation Programs for The Nature Conservancy. David, I think our point about this is -- relates to the fact that bargain sales can be a very useful and effective tool at consummating deals. It's a tried and true practice that's been used in many, many circumstances and situations in the past, and Heather I think can articulate more specifically from her experience how it's been used and the value of it. And I think our perspective on it is that the way this is written is that it would perhaps just hamstring the County a bit more than is necessary.

CHAIRMAN BISHOP:

I think I need a lesson, a real estate lesson. What are we talking about here?

MR. TURNER:

I'll defer to Heather who has more experience.

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MS. LANZA:

Okay. Well, I mean, typically how it works is, you know, you're negotiating with a landowner and they say, "Well, my land is worth \$2 million," and you say -- and so the County goes out or we go out and get an appraisal and it comes in at, you know, 1.8 million and we say, "Well, our appraiser says 1.8, we can't do two." An incentive for them to accept 1.8 would be a bargain sale and the way that works is you take the difference between his \$2 million appraisal which, you know, if he has an appraisal by a State Certified General Appraisal, who's to say his appraiser is wrong and yours is right? I mean, if they're both with the same level --

CHAIRMAN BISHOP:

So you take the difference.

MS. LANZA:

Yeah, you take the difference, sorry. You take the difference and you -- let me think how this works -- you apply it to --

LEG. FIELDS:

Who's you?

MS. LANZA:

The seller, the seller would be able to apply this against his income tax. So yeah, it's not against the Capital Gains, they still pay the --

MR. BURKE:

Capital gains.

MR. SABATINO:

He takes it as a charitable donation is what he does.

MS. LANZA:

Yeah, exactly, so it deducts off his adjusted gross income.

CHAIRMAN BISHOP:

Okay.

MS. LANZA:

And then he can, you know, therefore pay less income tax.

CHAIRMAN BISHOP:

Understood, okay.

MS. LANZA:

And in most cases --

CHAIRMAN BISHOP:

And we're going to disallow these?

MR. TURNER:

If they qualify.

COMMISSIONER ISLES:

It is suggested, yeah, that the County not do those, number one,

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unless the County is buying the property for less than the approved appraised value that we've come up with.

CHAIRMAN BISHOP:

Who has the liability if his certified, licensed New York State appraiser is, you know, is a scam artist?

COMMISSIONER ISLES:

Well, the only other point I wanted to make is that we aren't --

CHAIRMAN BISHOP:

With the seller in cahoots with his appraiser.

COMMISSIONER ISLES:

We aren't discounting the idea that through a third party, The Nature Conservancy or Peconic Land Trust, that if they wanted to do it that's up to them. As far as your question, I can't answer that in terms of who -- when they go to the IRS and what their requirements are there, I can't speak to.

CHAIRMAN BISHOP:

Well, I mean, what I'm asking is if you're guarding against something but it's not our job to guard against it, right, it's the Federal government that has to be weary of this type of arrangement.

COMMISSIONER ISLES:

Yes.

MR. TURNER:

I wouldn't be here.

CHAIRMAN BISHOP:

I mean, for us it's probably an excellent tool to bring parties together that are far apart.

MR. TURNER:

That's correct, and can ultimately help save the County money and save the County taxpayers dollars.

CHAIRMAN BISHOP:

But I want to go through a scenario where it's a fraud, I mean, what would happen then?

COMMISSIONER ISLES:

The concern I think is that there may be a perception that the County is allowing a Federal tax benefit to be provided to someone who through it's involvement in a land acquisition that really can't be supported by it. The Form, the 8283 form that's for the charitable donation would be stating that the County has received a gift of some sort or at least acknowledging that, and the question I think there is can we really say that in that case? And I'll defer to Heather, she knows more about this than I do.

CHAIRMAN BISHOP:

Can somebody clean -- tax benefits in the hundreds of thousands of dollars from a charitable donation the IRS doesn't investigate as a

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matter of -- they just say

MR. SABATINO:

In fairness to the Commissioner, the important thing is that when you sign the documents for the County, you're facilitating the circumvention of Federal Income Tax Laws which some might characterize as tax fraud. It's a very serious matter.

CHAIRMAN BISHOP:

You seem to have knowledge that it's --

MR. SABATINO:

And the contract document that they execute has to accurately represent the transaction. So in the scenario you just outlined, if it's -- if the property is appraised by the County at \$3 million, the contract would have to say \$3 million but we're only paying 1.5 million so the person can take the charitable deductions for 1.5.

MR. TURNER:

No.

MR. SABATINO:

You can't sign a contract at \$3 million, get paid \$3 million and then facilitate somebody taking a tax deduction over and above the County approved contract price, that's --

LEG. FIELDS:

Do we have a copy of the IRS wording that -- do we have, you know -- do you have any of those?

COMMISSIONER ISLES:

I have some back at the office and I have one here.

LEG. FIELDS:

I would by more comfortable reading the actual statement that we sign before --

MS. LANZA:

The form 8283, I mean, I've read the thing and, you know, we have it, but when you sign it all you're signing is a section that says this is what the County paid for this property. You're not -- and the contract -- I'm sorry, Mr. Sabatino, but I don't think you actually have to put in that we agree that the price is three million but we're only going to pay you two and a half.

MR. SABATINO:

You absolutely, absolutely, one thousand percent have to accurately state in the contract the transaction. If we have a contract at \$3 million because the property was appraised and agreed upon at \$3 million and we only got paid 1.5, and you're going to put the charitable donation clause in the contract, it's got to be accurate, you can't play games; you go to jail for that.

MS. LANZA:

No, I'm not suggesting we were playing games, I just don't ever remember doing a bargain sale where we -- usually the landowner gets

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the appraisal later and we don't even see what the appraisal is that they get a lot of times.

MR. SABATINO:

That may be happening in your transactions, but we're talking about a County transaction.

MS. LANZA:

Oh, okay.

MR. SABATINO:

A municipality entering into a contract with a seller who's going to take advantage of that donation based on our documents, your documents, maybe you're doing it in a different fashion, maybe you're held to a different standard, but I would go back and take a second look because you can't facilitate fraud. You can't circumvent Federal Tax Law by changing numbers.

MS. LANZA:

I'm not suggesting we would do that.

CHAIRMAN BISHOP:

You throw around the fraud every time there's a discrepancy.

LEG. FIELDS:

Again, I would be --

MR. SABATINO:

That's what it is if the contract says three million and you give the guy a million and a half dollar charitable donation --

MR. TURNER:

We're not doing that.

MR. SABATINO:

-- you know, when you pay the guy \$3 million, you're now giving him -- depending on his tax bracket, you've given him over \$4 million dollars in money when the contract says you gave him \$3 million.

CHAIRMAN BISHOP:

What I'm pointing out is that there are good faith differences in valuation. And all you're -- obviously you can't lie on any form and no one would encourage or permit a municipality or a private entity to lie on a form. But you keep characterizing any disagreement, immediately you jump to fraud and facilitating fraud, and I don't know how you could do that.

MR. SABATINO:

It's not about a disagreement, it's about a legal document. When you read the contract the contract says, "Purchase price, \$3 million," later on in the contract it says what the County paid. Did the County pay \$1.5 million? If that's what we paid then that individual can take the document and go to the IRS and get his charitable donation deduction for a million and a half. But if we paid him \$3 million he can't take the same document, go to the IRS and say, "Oh, and by the

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way, I want a million and a half dollar tax deduction," because now, depending on his tax bracket, we've paid him maybe \$4 million.

CHAIRMAN BISHOP:

Maybe this is an area that we require someone with more expertise than the people who are assembled in this room. Wouldn't it be prudent --

LEG. FIELDS:

I would be, again --

CHAIRMAN BISHOP:

-- if we're going to make a decision on this, to find a tax expert?

LEG. FIELDS:

I would feel more comfortable if we were able to read the document and even show some examples of how --

CHAIRMAN BISHOP:

Do you have a tax attorney that you work with?

MS. LANZA:

Yeah.

CHAIRMAN BISHOP:

All right. Why don't you bring that person to our next committee meeting. Did I cut you off? I apologize.

MR. TURNER:

I will certainly try to do that. I don't know what his schedule might be.

CHAIRMAN BISHOP:

You better do it, otherwise it's going to go through.

COMMISSIONER ISLES:

I'll send copies of the form that we have to the committee members.

CHAIRMAN BISHOP:

Thank you. All right, we're going to hold that -- we're going to flag that one and determine that one at the next meeting. Next?

MR. SABATINO:

Okay, the next one is Item No. 21 which stated that, "On a quarterly basis a report should be provided to all Legislators providing a summary of acquisition activity." That in turn became Introductory Resolution --

LEG. FIELDS:

1383.

MR. SABATINO:

1383, okay. Here it is, 1383.

CHAIRMAN BISHOP:

All right.

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LEG. FIELDS:

Oh, I like this one.

CHAIRMAN BISHOP:

I like this one but I don't know if we have to do it by statute, but I like it so much that I'm inclined to put it in.

COMMISSIONER ISLES:

We do that administratively, too. It's obviously something we do anyway and we'd be happy to -- we think it's a good idea. We don't think it needs to be in a statute.

LEG. FIELDS:

You know what, though? I would ask that -- we've have gotten it before by lot and block number. I would love to have it, you know, like the identification of the property or where it is just so that it lets us know what it is that we're talking about.

MR. BURKE:

Street address?

LEG. FIELDS:

Yeah.

CHAIRMAN BISHOP:

Or common description, corner road.

COMMISSIONER ISLES:

I don't know if we have it by street address. We have it by tax map number, property owner, acreage, value.

MR. BURKE:

Town.

COMMISSIONER ISLES:

Town, program.

COMMISSIONER ISLES:

Is that good enough?

LEG. FIELDS:

Can you do AKA?

COMMISSIONER ISLES:

I don't think we even have that.

MS. COSTIGAN:

Well, a lot of them don't have street addresses because they're vacant, nobody sends any mail there.

CHAIRMAN BISHOP:

But there's got to be a road, you know, someone had to find out how to get there.

LEG. FIELDS:

Some kind of geographical indication.

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MS. COSTIGAN:

It can be retrieved that way, you have to go to a different data base and run it; it takes a long time but it can be done.

CHAIRMAN BISHOP:

Well, on purchases forward.

MS. COSTIGAN:

You can't do it off the regular current system.

CHAIRMAN BISHOP:

I don't think it's an unreasonable request.

COMMISSIONER ISLES:

No. It's --

LEG. FIELDS:

We know it when we're doing the planning step.

CHAIRMAN BISHOP:

It's an administrative challenge, I grant you.

COMMISSIONER ISLES:

We just have to figure it out.

LEG. FIELDS:

If we're doing the planning step and we write the lot and block number, you know, for instance, if we're talking about Raynor Park or something, you know, instead of just putting the lot and block number you can put in parentheses Raynor Park at some field on the data base.

COMMISSIONER ISLES:

Okay, we'll try to do that.

LEG. FIELDS:

Thank you.

CHAIRMAN BISHOP:

All right, we're going to forgo making this a --

COMMISSIONER ISLES:

We'll see how far we can go with it.

CHAIRMAN BISHOP:

-- Legislative mandate and we're going to rely on your good word and administrative skills.

COMMISSIONER ISLES:

Thank you.

MR. SABATINO:

That concludes the acquisition portion, so there's only two categories left. The two categories left are the stand-alone Legislative initiatives and the overall general recommendations from the report. So I don't know what you want to do first.

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CHAIRMAN BISHOP:

Let's do the stand-alone Legislative. Wait, overall general recommendations, what are those, like maxims?

MR. SABATINO:

That's like Department of Real Estate as opposed to a division, a procedural manual.

CHAIRMAN BISHOP:

All right, let's do those, those sound good.

MR. SABATINO:

You want to do those? All right.

Okay, the first one is IR 1386 which was recommendation No. 1 in that category, "A procedural manual should be created and maintained for the Real Estate Division."

CHAIRMAN BISHOP:

There isn't one?

COMMISSIONER ISLES:

Apparently not, so we would create one.

CHAIRMAN BISHOP:

I think that's worthy of a Legislative mandate.

COMMISSIONER ISLES:

Well, we've already -- you know, we will be doing that administratively too.

CHAIRMAN BISHOP:

Yeah, you'll be doing it but we'll throw it in there because it --

LEG. FIELDS:

Yeah, that's approved.

CHAIRMAN BISHOP:

-- relates directly to our procedure in acquisitions, so it's ripe for reform. Approved (Vote: 5-0-0-0).

MR. SABATINO:

Okay, category number two -- Item No. 2 in that last, third category was, "Code of Ethics should be amended," that was done by legislation last week so that's accomplished.

CHAIRMAN BISHOP:

Okay.

MR. SABATINO:

The next one was Item No. 2 which translates into Introductory Resolution 1364 which is, "The department head should review the list of personnel in the Real Estate Division who are required to file annual financial disclosure affidavits"

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CHAIRMAN BISHOP:

Well, review is not a Legislative mandate. Do you have a list of people who you're going to have file financial disclosures?

COMMISSIONER ISLES:

Yeah, I have done a review. And actually the statute requires that the department heads submit a list of personnel that are subject to the disclosure requirements; we did that a few weeks ago, revising that list, it's done annually and the cycle is just starting now. So I have submitted to the County Attorney a revised list of personnel who are involved in negotiation leases and so forth, so we've broadened out to comply with the existing statute, that has been accomplished at this point.

CHAIRMAN BISHOP:

You do it by name or by title?

COMMISSIONER ISLES:

By name, by name, yeah. So we submit to the County Attorney the name and title of personnel that are involved in those activities that are subject to the disclosure.

CHAIRMAN BISHOP:

And you forward that to the Clerk of the Legislature as well?

COMMISSIONER ISLES:

Sure.

CHAIRMAN BISHOP:

I think you should

COMMISSIONER ISLES:

As long as the County Attorney says it's okay, but yes.

CHAIRMAN BISHOP:

Yeah. Paul?

MR. SABATINO:

What's the question?

COMMISSIONER ISLES:

Yeah, I submitted it to the County Attorney.

CHAIRMAN BISHOP:

Forwarding that information, it's a list of specific people who have to fill out this financial disclosure, to the Clerk of the Legislature.

MR. SABATINO:
Just naming the individuals?

CHAIRMAN BISHOP:
Yeah.

MR. SABATINO:
That's not a problem.

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CHAIRMAN BISHOP:
All right. We don't get a copy of the disclosures but just a list of the names.

MR. SABATINO:
Right, just a summary list, yeah.

CHAIRMAN BISHOP:
That could be a Legislative -- that could go into omnibus, it's a check and balance.

MR. SABATINO:
Okay. So in other words modify 1364 --

CHAIRMAN BISHOP:
To say to submit the list annually to the Clerk of the Legislature.

MR. SABATINO:
Okay.

CHAIRMAN BISHOP:
We're moving now breakneck speed.

COMMISSIONER ISLES:
I would have to check that with the County Attorney but I understand what you're saying, yeah.

CHAIRMAN BISHOP:
Yes. Well, I mean, if he -- it will be in the veto message then.

MR. SABATINO:
Okay, that was 1364 with the modification.

The next one was 1384 which is Item No. 4, "The staff of Real Estate should be prohibited from engaging in any outside business activity in the real estate field."

CHAIRMAN BISHOP:
Who does this implicate besides Mr. Grecco; are there other people with businesses?

COMMISSIONER ISLES:
I've only become aware of one other person since this recommendation was issued. I did direct it to Mr. Burke when he was the Acting Director in early March to begin to implement this. It's broken up in two forms, one is management which is not subject to Civil Service protection and, therefore, we can implement it quickly. As far as the second in terms of Civil Service staff, that would be subject to consultation with the County Attorney and implementation of that. The

Fundamentally, the point is to avoid conflict or the possibility or appearance of conflict. As I said, I've become aware of one employee who was a Civil Service employee who --

CHAIRMAN BISHOP:

What's the real estate field? What if I clean buildings?

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COMMISSIONER ISLES:

I don't think that would be the real estate field, I think we're talking about the transaction of real estate. The person who came tome is a real estate broker on the side.

LEG. CRECCA:

What happened?

COMMISSIONER ISLES:

Real estate agent, I have directed Mr. Burke prior to Ms. Costigan's appearance to consult with the County Attorney on that. We feel there should be a separation of functions.

LEG. CRECCA:

What if there is an attorney?

CHAIRMAN BISHOP:

Yeah.

LEG. CARACCIOLO:

Going back to Mr. Grecco and the determination of whether or not a conflict exists; who makes that determination?

COMMISSIONER ISLES:

I think it would be the department head would have to make the determination as to whether an outside business activity is in the real estate field in terms of what was intended by this.

CHAIRMAN BISHOP:

How you doing, Alison?

LEG. FIELDS:

You need a break?

MS. MAHONEY:

No, I'm good.

COMMISSIONER ISLES:

So what I've asked for management employees is that Mr. Burke provide to me a list of any employee, management employee who's doing any outside real estate activity, the nature of that work and when it would be terminated. It doesn't appear that there's much outside work going on at this point, but we'll get a confirmation of that. As far as Civil Service employees, here again, we're coordinating that through the County Attorney.

LEG. CARACCIOLO:

Okay. I did hear you say earlier there was one other person that may have a potential problem.

COMMISSIONER ISLES:

Well, there is one person who came to my attention who came to see me after this report was issued and said, "I do sell real estate on the side."

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LEG. CARACCIOLO:

Was that something you were aware of previously?

COMMISSIONER ISLES:

No.

LEG. CARACCIOLO:

Okay. And what capacity is this person employed by the County; Civil Service or management?

COMMISSIONER ISLES:

Civil Service.

LEG. CARACCIOLO:

Okay. When will this person be advised as to whether or not there is a conflict; and you'll make that determination?

COMMISSIONER ISLES:

Well, two things. Number one is that person has been added to the list of persons required to file financial disclosure forms.

LEG. CARACCIOLO:

Uh-huh.

COMMISSIONER ISLES:

So therefore, it will be brought to the attention of the Board of Ethics, number one. And number two, as I said, I have asked the Acting Division Director at that time to consult with the County Attorney and we'll be doing that and determining what actions we can take consistent with Civil Service rules.

LEG. CARACCIOLO:

Do you know, at the time of Mr. Grecco's employment with the County when he came on board, if he disclosed that he had a title -- I mean an abstract business?

COMMISSIONER ISLES:

I wasn't here at that time, he came on board in 1994, so I really can't speak first hand for what he disclosed or didn't disclose. He was required to do financial disclosure forms, from what I can understand, for most of the years that he was employed here.

LEG. CARACCIOLO:

As the Chairman noted, and we could only probably hear him up here, he did on numerous occasions advise members of the Legislature that he had an abstract business.

CHAIRMAN BISHOP:

He told us that he told the County Executive that when he was hired and that they negotiated whether he could keep it or not and he said it in an open Legislative session numerous times.

LEG. CARACCIOLO:

Okay.

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CHAIRMAN BISHOP:

I'm interested, though, in this employee with the Real Estate on the side. Am I to understand then the likelihood is that he would be advised that he can't do that?

COMMISSIONER ISLES:

We have not made that determination at this point.

CHAIRMAN BISHOP:

Let me -- what about a County Attorney who does closings on the side?

COMMISSIONER ISLES:

We have talked about that. This recommendation really deals with staff of the Real Estate Division.

CHAIRMAN BISHOP:

The real estate field is so broad.

COMMISSIONER ISLES:

This recommendation deals with staff of the Real Estate Division. And quite frankly, the feeling is that staff of the division, including management staff, should not be involved in real estate transactions, including closings. So that was the intent of this, that there would be a separation of the functions.

LEG. FIELDS:

Can I ask two questions?

CHAIRMAN BISHOP:

I think that -- well, go ahead.

LEG. FIELDS:

The other day at a Parks Trustee meeting we discussed how a land acquisition comes before the Legislature and there were two ways that we determined; one is that it comes somehow or other through the County Executive and the other is through a Legislator.

COMMISSIONER ISLES:

Right.

LEG. FIELDS:

Let's take a scenario of a County Attorney who's heavily involved in real estate on the side, closings. It could be a conflict of interest on his or her part with presenting properties to the Legislature -- I don't have anybody's attention, so I guess I'll wait.

CHAIRMAN BISHOP:

We're talking about our future.

LEG. FIELDS:

Well, I'm talking about you, I'm talking about attorneys.

CHAIRMAN BISHOP:

Go ahead.

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LEG. FIELDS:

I just said that it came to our attention at Park Trustees the other day that there are two ways an acquisition comes before the Legislature; one is through the Executive's Office and the other is through a Legislator. Let's say you have a County Attorney who is heavily involved in closings, real estate closings, and through a conflict of interest they're pushing those properties through the County and through the County Executive's Office; that could be a major conflict of interest.

LEG. CRECCA:

Any time there's a conflict there's a -- I'm sorry.

LEG. FIELDS:

So then what? I mean, this would --

CHAIRMAN BISHOP:

You want to adopt a blanket --

LEG. CRECCA:

But I thought that if there's a conflict, doesn't an employee have to disclose that conflict? I mean, just like if I come across in my dealings with a private attorney, I come across something where there's either the appearance of a conflict or a conflict, I have an ethical obligation as an attorney to disclose that conflict and act appropriately. For the non attorney -- so I don't think there's really a problem whether it's an attorney because an attorney can be disbarred for doing something where there is an actual conflict of interest, it violates our ethical rules. But backing up, if it's a non attorney, don't we have rules in effect that they have to disclose a conflict for our employees if there is an outward conflict?

MR. GRIER:

That would be correct, particularly for us as attorneys. Let me just clarify one point for you. Attorneys in the County Attorney's Office are precluded from having any outside practice, so we cannot do outside closings unless we go through a -- we specifically ask for permission on a particular instance, and on those they're generally related to family members only where we don't get paid. So it's very, very limited in what any County Attorney can do on the outside.

LEG. FIELDS:

What about a County Legislator?

MR. SABATINO:

County Legislator doing a real estate closing? That's not a problem. I think the scenario that you were describing would be a conflict if the individual brought the transaction and negotiated it.

LEG. FIELDS:

What if a County Legislator did? That's the second way that a piece of property comes before us, through a Legislator or through the Executive's Office. What if a County Legislator --

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MR. SABATINO:

There's two -- with a County Legislator, if a constituent contacts a County Legislator and says, "I've got property," wherever it is and the Legislator forwards that information to the appropriate parties

and then files a resolution to start the process, there's nothing wrong with that, that's a legitimate exercise of Legislators' official government duties which includes the acquisition of land or open space. If you are telling me a different scenario which is that a Legislator has an ongoing business relationship where he or she is being paid by a person who owns a piece of land and that person retains the Legislator to negotiate with the Division of Real Estate the acquisition, that's a clear direct conflict, absolutely, one thousand percent. But I don't want to cloud over the two or, you know, fuzz over those lines, I mean, it's clearly two totally different circumstances.

LEG. CRECCA:

Just my general feeling that with the current ethics laws we have on the books for County Employees --

MR. SABATINO:

Right, that's covered by --

LEG. CRECCA:

-- I think we're covered here.

MR. SABATINO:

Yeah, pre-last week, even without those amendments that was the law.

LEG. CRECCA:

Right, that's what I'm saying. So I think those conflicts exist there and if an employee wants to -- is going to run the risk of violating our current ethics laws, they're going to do it whether we adopt this or we don't adopt this. And I don't think we should over legislate this and I think we should stick with the ethics laws that we have, which are pretty strong.

LEG. FIELDS:

What about the employee that's in the County now -- I mean, I understand we're waiting to hear, but let's just say that -- I guess you're waiting to hear whether or not that person can continue to work in the department and let's say that the decision is that they can or by law they have to continue; what do we do in a situation like that?

COMMISSIONER ISLES:

I think we'd have to require at the very least disclosure of transactions and where they may potentially conflict with County duties which would include, you know, if we're buying property from somebody that he's done real estate transactions with, that's an issue, obviously if we're involved in the same parcels, that's an issue. The Code of Ethics is in place on that and the County Executive has recommended certain changes to the Code of Ethics to deal with that. And I will just make the point, too, that this person is not involved in negotiations or things that are extremely sensitive. Obviously where this originated from is the former Director owning a title abstract company and the concern for that being a

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little bit too close for comfort. That's the purpose of it and this will enable us to begin to understand and see these relationships and situations and then determine if there's an issue or if there's not an issue.

LEG. FIELDS:

Okay, I think we should approve this one.

LEG. CARACCILO:

I agree.

CHAIRMAN BISHOP:

I'm troubled by the broad definition of -- I mean, we have ethics laws to guard against conflicts of interest and then this layers on top of it with a broad sweep that they can't be involved in real estate in any way. And we don't have a definition of what real estate involvement there is, except they can't be involved in transactions, is that what you're saying?

COMMISSIONER ISLES:

Yeah, and I'll just make one other point. Under the proposed new department, the language on that would say that, "No officers or employees of the department shall engage in any outside business activity in the real estate field," and it goes on to talk about management and Civil Service rules. So it's the same thing but it's reaffirming it here. Beyond that, it comes down to a judgment as to whether it's a real estate activity or not.

CHAIRMAN BISHOP:

All right.

LEG. FIELDS:

If we didn't pass this it would just be stating that the last episode with the Grecco land scandal was okay, you know, that you can do that. So --

CHAIRMAN BISHOP:

I disagree with that, but all right.

LEG. CRECCA:

And why is it okay for us?

CHAIRMAN BISHOP:

All right. All in favor of this? Opposed?

LEG. CRECCA:

Opposed.

CHAIRMAN BISHOP:

Four to one.

MS. MAHONEY:

I did not hear who was in favor and who was opposed.

CHAIRMAN BISHOP:

Only Legislator Crecca was opposed, although I'm sympathetic.

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LEG. CRECCA:

If it's a formal motion, put it down as an abstention.

CHAIRMAN BISHOP:

Fair enough. Approved (Vote: 4-0-1-0 Abstained: Legislator Crecca0.

MR. SABATINO:

Okay, the next one is IR 1377 which was No. 5 stating where a condition of employment within the Real Estate Division requires a license or other certification, such license or certification must be maintained in good standing as a condition of employment.

LEG. CRECCA:

Isn't this already covered by our other rules asking them to certify every year, or no? I'm asking that to Counsel, actually.

CHAIRMAN BISHOP:

What is this saying, the appraisers have to be licensed?

MR. SABATINO:

No, this says that if you've got a job, any kind of a job in the Real Estate Division that requires some kind of license or certification from somebody, someplace, somewhere --

CHAIRMAN BISHOP:

You have to renew it annually.

MR. SABATINO:

-- that you have to keep -- well, whatever it takes to keep it in standing. For example, a real estate broker has to now take, I don't know what it is, 40 credits or continuing legal education courses or continuing education, whatever it is.

CHAIRMAN BISHOP:

Yeah, this should be codified.

COMMISSIONER ISLES:

Or an attorney or whatever else it might be.

CHAIRMAN BISHOP:

It should also be the practice to begin with.

LEG. CRECCA:

That's fine, just incorporate it in the right spot along with the other -- because we've already talked with them having to submit proof of this.

MR. SABATINO:

That's for a real estate appraiser. For example, you could be a broker.

CHAIRMAN BISHOP:

This is for other licensed professionals. .

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COMMISSIONER ISLES:

So we've implemented this administratively, too, and it's a no-brainer I think.

CHAIRMAN BISHOP:

Now it's going to be law. Approved (Vote: 5-0-0-0). All right. Now we have Legislative proposals?

MR. SABATINO:

Well, the last item in that category was the recommendation for a

separate stand-alone Real Estate Department. There's a Local Law that was filed, it's in this new cycle, it's IR 1287, the public hearing will be coming up in April.

CHAIRMAN BISHOP:
Okay.

MR. SABATINO:
So that was not one of the late starters.

CHAIRMAN BISHOP:
Okay, we won't be doing that here today.

MR. SABATINO:
So that takes care of the three categories in the report. And then the only items that were left were the bills that you've been tabling in committee pending this report which include IR 1010 which was Legislator Caracciolo's proposal, 1022 which was --

CHAIRMAN BISHOP:
Legislator Caracciolo, are you here?

LEG. CARACCIOLO:
Yes.

CHAIRMAN BISHOP:
Are there aspects of your proposal that have not been adopted by the actions of the committee so far that would urge us to adopt?

LEG. CARACCIOLO:
I tell you after being here now more than three and a half hours, four and a half --

CHAIRMAN BISHOP:
Four and a half.

LEG. CARACCIOLO:
-- I would have to compare the two to see if there isn't some overlap.

LEG. CRECCA:
Do a motion to table it.

LEG. CARACCIOLO:
Yeah.

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CHAIRMAN BISHOP:
Well, you don't really need a motion, we don't have an agenda today.

LEG. CRECCA:
Oh, okay.

CHAIRMAN BISHOP:
You know, a legal agenda. Okay. 1080, that's mine, prohibiting County land acquisition policy where appraisals are effected by municipal land use. Not only in the recent situation with -- what's the name of that parcel? The one that we -- Chandler. Not only in the situation with the Chandler Estate but in several others over the

years, what has happened is that the County Legislature authorizes the purchase of a property and then the town or village that the property lies within rezones it so as to increase the value of the land that we're buying; this would prohibit us from purchasing properties where that occurs. The positive of that is that -- there's a positive and a negative. The negative would be that if you want to acquire a property and then the town goes out and rezones it you can't acquire it any longer. The positive is that you're preventing a situation where the town is acting in a way that increases greatly the burden to the County taxpayers, and they do so knowing it's no skin off their apple so to speak because the County has deep pockets and will pay for it anyway.

LEG. CRECCA:

Isn't sometimes a rezone though as a matter of right, or no?

CHAIRMAN BISHOP:

Well, this -- what I'm trying to get at here is discretionary actions.

LEG. CRECCA:

Yeah, but why don't you -- if you are going to do that, if you want to protect against that, David, I think the way to do it is to protect against us, maybe do something where it has to come back for Legislative approval with a new appraisal after it's been rezoned so that we can make the decision. We may decide that it's still a valid -- I mean, we can have the most sensitive --

CHAIRMAN BISHOP:

Fair enough, I agree.

LEG. CRECCA:

Environmentally sensitive piece of land, but we don't want to --

CHAIRMAN BISHOP:

I think that's fine. So what it would say -- do you follow that? I think he's right.

MR. SABATINO:

I'm listening.

LEG. CRECCA:

What I said was if you have --

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MR. SABATINO:

No, no, I heard what you said.

CHAIRMAN BISHOP:

I'm agreeing, I'm agreeing. So I think the rule would be that when the town changes position, discretionary position that increases the value of the property, that it would have to come back for another vote of the Legislature.

LEG. CRECCA:

And actually makes it go into a level four or a level --

COMMISSIONER ISLES:

Yeah, that's essentially what's happening. We come back to you on the level fours and then potentially you have the review still under the

two step planning step authorization.

LEG. CRECCA:

Correct.

COMMISSIONER ISLES:

We come back to and we lay before you this information, the appraisal and so forth, that's the sort of thing that could come up, there was a recent rezoning and the appraisal now spiked up or whatever.

LEG. CRECCA:

Well, that's -- what I think we should do is just define, add to our -- you know we have this process with the different levels, anything that receives an actual rezone or there's a change in value during the course of it should go into level three regardless of the price, or level four or whatever it was, level four I think it was, regardless of the price, so it has to back for Legislative approval, it has to have the two appraisals and so on. Does that satisfy it?

CHAIRMAN BISHOP:

I think your first approach was clear and a bright line which was if the town changes position towards the property in a way that increases it --

LEG. CRECCA:

It could be a village.

CHAIRMAN BISHOP:

Yeah, town village, I'm sorry, it will come back to the legislature for a vote. So if you were buying five acres and it was farmland and they rezoned it industrial, then it's going to come back for a second vote after they rezone it.

COMMISSIONER ISLES:

What about -- I'm sorry. What about if it's a subdivision?

LEG. CRECCA:

That's what I'm saying.

COMMISSIONER ISLES:

We start the process and --

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CHAIRMAN BISHOP:

Any discretionary action by the town that would increase the value.

LEG. CRECCA:

Now you're getting to --

COMMISSIONER ISLES:

There are a lot of things.

LEG. CRECCA:

There's a lot of discretionary things the town can do. I mean, they can cut stop an egress off or they can cut off an entrance. I mean, you have to be able --

CHAIRMAN BISHOP:

Stopping an egress would increase the value?

LEG. CRECCA:

Well, I'm just -- I don't know.

CHAIRMAN BISHOP:

But I'm trying to get at, you know, something that is occurring.

LEG. CRECCA:

Well, what I'm saying to you --

CHAIRMAN BISHOP:

In the history of our Land Purchase Program it's occurred an awful lot of times, particularly in one town.

LEG. CRECCA:

But what I'm saying is that in any case where there is a substantive action taken by a town planning --

COMMISSIONER ISLES:

Board or town board.

LEG. CRECCA:

Board, thank you, or town board, that it would have to go into a level four which just means that -- no, am I wrong?

COMMISSIONER ISLES:

The only thing, when you say discretionary, does that mean if a town accepts the DEIS?

LEG. CRECCA:

No.

COMMISSIONER ISLES:

Does that mean it's further along in the process --

LEG. CRECCA:

It would have to change the use of the land.

COMMISSIONER ISLES:

At what point do actions trigger this kind of extra review?

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LEG. CARACCILO:

Spring Meadow.

LEG. CRECCA:

What do you suggest, Tom?

COMMISSIONER ISLES:

I think it should be --

LEG. CRECCA:

You understand what we're trying to get at.

COMMISSIONER ISLES:

I understand exactly what you're saying and I understand the point of the Chairman, that we don't want to pay some windfall inflated price for the owner. Just to be a little careful, I think a change of zone is typically discretionary, it's not an as-of-right situation, a

subdivision, if they meet the requirements, can be as-of-right. And just when you start talking about the intermediate steps because we're often involved when an application is pending for an approval. I don't want to, here again, burden the process so much, but I think as you said earlier, we're coming back to you most times anyway on these acquisitions, we could then reveal that to you in terms of -- obviously you might ask the question is there a subdivision pending, what's the status of SEQRA and so forth. And by the way, the appraisal report often does consider it. They'll call the town, they'll find out the status of whatever land use consideration may be under play. I think the idea is fine. The implementation of it or the practice of it might be a little bit tricky.

LEG. CRECCA:

What if we made it a disclosure law in a sense of when I say that as part of the procedure, that if there are any land use changes which the Division of Real Estate is aware of as part of the process. That they'll notify the Legislature, or you think that makes it worse?

COMMISSIONER ISLES:

Yeah, I'd like to think about it a little bit further.

LEG. CRECCA:

Okay.

COMMISSIONER ISLES:

I think it's a little tricky. I just don't want it to have the consequences we didn't intend, that's all.

LEG. CRECCA:

I mean, I think we all agree on the concept, David, I think we just have to work on the language. And maybe we can do that with Counsel and --

LEG. CARACCIOLO:

Mr. Chairman, I would urge that we approve both 1010 and 1080, they kind of mirror each other in many aspects. And as Mr. Isles is very familiar with, the Spring Meadow property in my district which has languished for now four or five years, and as of late the reason for

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it languishing is because the town had yet to approve its final environmental impact statement. And we have heard from various sources a representation that the property will have a lower yield than previously had been disclosed to the County. And when that happens, whether in this case it's less of a yield or in some case a higher yield, it will have an impact on the appraised value of the property and what the County and the County taxpayer might ultimately pay.

So I think it's very pertinent and important that when these local town decisions are rendered, that that information be brought back to the Legislature before we authorize final acquisitions because it has a direct bearing on what the ultimate cost might be. And we have to review so that there is no doubt in anyone's mind that the accusations that have been made and some of the other acquisitions like Chandler as to what the yield was and not hypothetically it could have been 20, it could have been 30, it could have been 40. We should know a finite number that that property could have been appraised and purchased for

and not leave it up to the range that, you know, may have increased the value beyond what was reasonable and fair to the County taxpayer.

LEG. CRECCA:

The only thing is, Legislator Caracciolo, is that you don't know -- an appraiser, when they're looking at a piece of property, don't always -- they can't always predict a hundred percent what the yield will be, that's part of the problem.

LEG. CARACCIOLO:

Well, you're right, and that's what my resolution attempts to do. It requires that the town inform the County as to the zoning and yield so that the appraiser is armed as he goes out to conduct his appraisal in how many lots can be built and what the zoning is and what the yield is, and it's not left up to --

LEG. CRECCA:

But I don't know if you can legally tell a planning board that they have to tell you that when you don't have -- we have no right to the land yet, okay, we're doing appraisals on the lot. We are not a land owner, okay. So I don't think we necessarily have the legal standing to demand that they tell us information on -- I mean, if I'm wrong tell me, Tom.

COMMISSIONER ISLES:

No, I think you're right.

LEG. CRECCA:

I mean, theoretically this goes right down to property rights and our Constitution. And you cannot necessarily compel a town to tell us or define land use rights on a particular parcel -- at least I don't think, Mike, I mean, that's my inclination -- without the consent of the landowner.

CHAIRMAN BISHOP:

What is that? I don't quite follow that. We can't compel the Town of Babylon to tell us what a property owner has as of right?

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LEG. CRECCA:

Well, I think -- no. I think what Mike is saying is that sometimes it's questionable as to whether -- let's say a landowner has an application pending for a subdivision.

CHAIRMAN BISHOP:

Right.

LEG. CRECCA:

Okay? And we -- an appraiser wants to know what the yield is going to be on this lot, whether it's going to be 40 parcels or 20 parcels or whatever.

CHAIRMAN BISHOP:

Right.

LEG. CRECCA:

Okay? There are legal rights that that owner has regarding that pending application. Obviously whatever is decided by the town goes right directly to not only to his property rights but the value of the

land and it's really what we're getting at. We can't compel the town to tell us outside the process. You don't follow me?

CHAIRMAN BISHOP:

Oh, outside the process. In other words --

LEG. CRECCA:

Well, they have to go through -- we have no standing on an individual piece of property to go in and compel and answer as to what an application would yield or not yield; am I right or wrong?

LEG. CARACCIOLO:

Counsel?

MR. SABATINO:

Legislator Crecca is correct on that point, but I think the confusion is with regard to what the bill actually does. What Legislator Caracciolo's bill called for was disclosure of land use decisions and then an accompanying explanation by the appraiser and the review appraiser in front of the committee to explain what he or she actually did in terms of the appraisal. What precipitated it was the Campo appraisal which specifically stated that -- I forget what it was, a 40 unit subdivision approval by the Town of Riverhead had formed a basis for the value when it turned out that, in fact, there was no such appraisal -- I'm sorry, there was no such approval in place.

LEG. CARACCIOLO:

Approval.

LEG. CRECCA:

That's the appraisal.

MR. SABATINO:

So what would happen here in this legislation is that you would just get disclosure; was there a land use decision, what was it? Did it form the basis for the appraised value; if it did, an explanation.

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That's all perfectly totally legitimate information, it's in the public arena; you're not asking for anything private.

LEG. CRECCA:

That's different, right.

MR. SABATINO:

In your scenario you were absolutely correct.

LEG. CRECCA:

That's different. I thought you were asking the town to issue --

MR. SABATINO:

We're talking after a decision has been made.

COMMISSIONER ISLES:

That is different, yeah.

LEG. CRECCA:

Yeah, it is different. And also, if there's a pending decision, all the appraiser can do is reference a pending decision in their

appraisal --

MR. SABATINO:
Exactly.

LEG. CRECCA:
-- and take it into consideration and that is sometimes what happens often, you know.

MR. SABATINO:
But the point is that if he or she said in the appraisal, "It's now worth \$5 million because I think there's going to be, you know, a 40 unit subdivision approval," that's different from --

LEG. CRECCA:
Correct.

MR. SABATINO:
-- the statement that, "This is based on there is, in fact, a 40 unit" --

LEG. CRECCA:
Why don't we just -- wouldn't it be simpler to require the appraiser to attach a copy of the town's -- obviously it's public record, it's a planning board decision -- rather than impose on the towns. The appraiser is the one doing the appraisal; if they're relying on information --

MR. SABATINO:
No, I think there's a misunderstanding. If Legislator Caracciolo's version passed by itself, all -- he was setting up procedures for this committee. He was saying that this committee would be entitled to the information from the Real Estate Division and the appraiser with regard to does the written appraisal say it's based on some land use decision that occurred at the town or village level; its a factual

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statement. If, in fact, the answer is yes, then this committee would hear from the appraiser and the reappraiser as to what formed the basis, how they did the analysis with that land use decision, and then this committee would have to vote as to whether or not affirmatively, specifically wanted to go forward with the transactions based on this new information. That would be totally different procedure from what we've currently been doing.

LEG. CARACCILO:
It's basically a disclosure requirement, as Counsel just stated. In other words, the Planning Director comes to the committee, two committees of the Legislature, this committee and the -- what is it, Ways & Means?

MR. SABATINO:
Ways & Means.

LEG. CARACCILO:
Ways & Means. And that way there's disclosure of the information that formed the basis for the appraised value.

MR. SABATINO:

The distinction between --

LEG. CRECCA:

But if we're getting the appraisals anyway, this is what I'm saying, I don't want to overly -- I think it's an excellent point and I think you're absolutely right, Legislator Caracciolo, let me start off by saying that. What I don't want to do is overburden the whole process. If we are requiring that we get copies of the appraisals, and I believe that was an earlier requirement that we put on there, then we have that information before us, it's up to us to do our due diligence and question the appraisals and it will be right in the appraisal, and I think that really falls on us. I think to codify that now is adding additional layers when we've already put the mechanisms into place so that doesn't happen again so that we do see the appraisals.

LEG. CARACCIOLO:

With all due respect, I disagree. Mr. Chairman, I would like to make a motion that we approve it.

CHAIRMAN BISHOP:

All right, but mine was the one that was before us.

LEG. CARACCIOLO:

That's fine.

MR. SABATINO:

Yours -- the difference between yours and Legislator Caracciolo's was yours would have prohibited the act, yours would have simply prohibited the acquisition if there was a land use decision after we authorized planning steps, that's the difference between the two.

CHAIRMAN BISHOP:

And Legislator Crecca made a compelling argument that it should be a
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second vote and I agree with that; instead of a prohibition, it would require a second approval.

MR. SABATINO:

That's Legislator Caracciolo's bill.

CHAIRMAN BISHOP:

All right. Well, that's the one I support.

MR. SABATINO:

Okay.

CHAIRMAN BISHOP:

That's a good idea.

LEG. CRECCA:

Which one is that?

LEG. CARACCIOLO:

1010.

CHAIRMAN BISHOP:

Okay. So all in favor of that? Opposed? So we'll incorporate 1010 (Vote: 5-0-0-0).

MR. SABATINO:

The last one was --

LEG. CRECCA:

Is that the one that they have to come before us?

CHAIRMAN BISHOP:

No, it's not that the appraiser has to come -- it's supposed to require -- what we're looking to do is to get a second vote.

MR. SABATINO:

That was the second -- okay. Legislator Caracciolo was the full disclosure with the appraiser and the second vote.

CHAIRMAN BISHOP:

We're only on one of these at a time. I said mine originally banned it, Legislator Crecca said don't ban it, have a second vote, I agreed; that's the motion I'd like before us.

LEG. FIELDS:

Which resolution is that?

LEG. CARACCIOLO:

1080.

CHAIRMAN BISHOP:

Which is if a locality, post authorization, if another level of government takes a discretionary action that affects the value, then it would come for a second vote of the Legislature.

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MR. SABATINO:

Okay, that's 1080 modified then.

CHAIRMAN BISHOP:

Okay, that's what I'd like to do. All in favor of that? Opposed? 1080 is approved (Vote: 5-0-0-0).

MR. SABATINO:

All right, the last one was 1022, that was Fields, Postal, Alden, Lindsay, Caracciolo, Cooper which had six components. It depends on how you construe them or how you view them, but it looks like maybe three or four of them were incorporated here. I'll go through it real quickly.

The first recommendation in that bill was for the simultaneously double appraisal if there was a value of more than 50,000; I view that as being incorporated in an earlier one if the committee agrees.

CHAIRMAN BISHOP:

Yes.

MR. SABATINO:

Okay. The second one was that the appraiser and the review appraiser would have to explain the basis for the appraisal in front of this committee and in executive session if necessary; that was not incorporated in an earlier one.

CHAIRMAN BISHOP:

The appraiser would have to --

MR. SABATINO:

The appraiser would have to and the review appraiser would have to be available at the committee to explain.

CHAIRMAN BISHOP:

To be available, so it's at our discretion; if we want them they'll come. We have to have a resolution to do that?

LEG. CRECCA:

Wouldn't we just request the appraiser to be here?

CHAIRMAN BISHOP:

Yeah, I think that that one sounds like --

MR. SABATINO:

I'm telling you what the suggestions are.

CHAIRMAN BISHOP:

If nobody is offended, I would say we can do that by request. Next one?

MR. SABATINO:

Okay, the third one goes with the second which was that the Commissioner of the Planning Department would have to specifically identify the appraisal that was being used as the basis for negotiating the acquisition. I think that was addressed by the

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earlier proposal that we did this morning about don't use the seller's appraisal.

CHAIRMAN BISHOP:

Right.

MR. SABATINO:

Okay, so that one is really incorporated. The fourth one is clearly incorporated, that one said no payment should be --

CHAIRMAN BISHOP:

That's incorporated, next one.

MR. SABATINO:

Right, in excess of appraised value. The fifth one was that if -- well, the fifth one really ties in with the fourth one which is that they have to come before the committee and explain why they were trying to go above the appraised value.

CHAIRMAN BISHOP:

We haven't -- we may adopt that one if we adopt the rule that allows us to go above the appraised value and use market value, so we'll hold that one in abeyance.

MR. SABATINO:

That was kind of left open based on what you talked about this morning.

CHAIRMAN BISHOP:

So that one has to be flagged and tied in with the other one. I'm sure we want to adopt that if we permit the discretionary.

MR. SABATINO:

And then the last one called on the Commissioner of Planning to do all the financial disclosures you talked about and to represent that there are no conflicts of interest from people working within the Division of Real Estate.

CHAIRMAN BISHOP:

Well, we've done that.

MR. SABATINO:

That was incorporated in that last change.

CHAIRMAN BISHOP:

Okay.

MR. SABATINO:

So I'd say five out of the -- four out of the six were clearly incorporated, one you rejected and one is an open question.

CHAIRMAN BISHOP:

One's an open question, okay. And then I think the last one is a procedural motion but that's not right for an omnibus anyway. Okay. Well, Alison, we've made it. Every crisis presents opportunity,

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and hopefully this is an opportunity to do better by the people of Suffolk County.

Thank you all for your long hours on this. Motion to adjourn having been made and seconded. All in favor? We stand adjourned.

(*The meeting was adjourned at 5:48 P M*)

Legislator David Bishop, Chairman
Environment, Land Acquisition & Planning Committee

{ } - Denotes Spelled Phonetically

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